

thereon are not required, and the rule will be made effective immediately.

Accordingly, the Board hereby amends Part 389 of its Organization Regulations (14 CFR Part 389), effective May 1, 1975, as follows:

Amend paragraph (b) of § 389.22 to read as follows:

**§ 389.22 Failure to make proper payment.**

(b) The filing fee tendered by a filing party shall be accepted by the Board of Finance to whom payment is made, subject to post audit by the Chief of the Board's Finance Section and notification to the filing party within 30 days of any additional amount due. Not more than 5 days after receipt of the notification, the determination of the Chief, Finance Section, may be appealed to the Executive Director of the Board, who has been delegated authority by the Board to decide such appeals in § 385.12 of this chapter. The filing party may submit to the Board a petition for review of the Executive Director's decision pursuant to § 385.50 of this chapter, and proceedings thereon will be governed by Part 385, Subpart C, of this chapter.

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

Effective: May 1, 1975.

Adopted: May 1, 1975.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc. 75-11974 Filed 5-6-75; 8:45 am]

**Title 15—Commerce and Foreign Trade  
CHAPTER I—BUREAU OF THE CENSUS,  
DEPARTMENT OF COMMERCE**

**PART 60—PUBLIC INFORMATION**

Part 60 of Chapter I of Title 15 of the Code of Federal Regulations is hereby revised.

The purpose of this revision is to conform with criteria set forth in Title 5, United States Code, section 552, as amended by Pub. L. 93-502, and to conform with the rules promulgated by the U.S. Department of Commerce on March 12, 1975 (40 FR 11551). These regulations prescribe the procedures to be followed by members of the public in requesting data under the Freedom of Information Act, and by the Bureau of the Census in searching for and providing requested data.

The rules proposed herein do not fall within the criteria set forth in the draft Department Administrative Order relating to Inflationary Impact Statements required by Office of Management and Budget Circular No. A-107.

Because a delay in implementing these regulations would be contrary to the public interest, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rule-making, opportunity for public participa-

tion and delay in effective date are inapplicable.

The effective date of these regulations is February 19, 1975.

Title 15, Code of Federal Regulations, Part 60, is hereby revised in its entirety as follows:

Sec.	Scope and purpose.
60.1	Policies.
60.2	Definitions.
60.3	Publication in the FEDERAL REGISTER.
60.4	Availability of materials for inspection and copying.
60.5	Confidentiality of data collected by the Bureau of the Census.
60.6	Requests for records.
60.7	Initial determinations of availability of records.
60.8	Appeals from initial denials or untimely delays.
60.9	Fees.
60.10	Arrangements for public inspection and copying of available records.
60.11	

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502; 5 U.S.C. 553; 5 U.S.C. 301; 40 FR 11551.

**§ 60.1 Scope and purpose.**

(a) This part revises the rules whereby the Bureau of the Census is to make publicly available the materials and indexes specified in 5 U.S.C. 552(a)(2), and the records requested under 5 U.S.C. 552(a)(3). This revision is to conform the rules to the requirements of the Freedom of Information Act (5 U.S.C. 552), as amended by Pub. L. 93-502, 88 Stat. 1561, effective February 19, 1975.

(b) These rules supplement Department Administrative Order 205-12, which contains policies, delegations of authority, and other rules implementing 5 U.S.C. 502. These rules also supplement the rules published on March 12, 1975, by the Department of Commerce (40 FR 11551).

**§ 60.2 Policies.**

(a) Policies and other factors to be considered in issuing the rules in this part are set forth in Department Administrative Order 205-12.

(b) Requests for records made under 5 U.S.C. 552(a)(3) apply only to existing records, and the Bureau is not required, in response to a request, to create records by combining or compiling information contained in existing records, or otherwise to prepare new records. However, Bureau officials may, upon request, provide or create new information in record form pursuant to user charge statutes, such as 15 U.S.C. 1525-1527, or in accord with authority otherwise provided by law.

**§ 60.3 Definitions.**

(a) To the extent that terms used in this part are defined in 5 U.S.C. 551, they shall have the same definition herein.

(b) As used in this part, "Act" means the "Freedom of Information Act," as amended, 5 U.S.C. 552.

**§ 60.4 Publication in the Federal Register.**

(a) Materials required to be published pursuant to the provisions of 5 U.S.C. 552

(a) (1) have been and shall continue to be so published, in one of the following ways:

(1) By publication in the FEDERAL REGISTER of the Department Orders of the Department of Commerce, including any supplements and appendices thereto, and of appropriate Secretary of Commerce Circulars and Department Administrative Orders;

(2) By publication in the FEDERAL REGISTER of agency rules and regulations, and by their subsequent inclusion in the Code of Federal Regulations;

(3) By publication in the FEDERAL REGISTER of appropriate general notices; and

(4) By other forms of publication, when incorporated by reference in the FEDERAL REGISTER with the approval of the Director of the Federal Register.

(b) Those materials which are published in the FEDERAL REGISTER pursuant to 5 U.S.C. 552(a)(1) shall, to the extent practicable and to further assist the public, be made available for inspection and copying at the facility identified in § 60.5(c).

**§ 60.5 Availability of materials for inspection and copying.**

(a) The Director, Bureau of the Census shall, as provided in 5 U.S.C. 552(a)(2) and subject to other provisions of law, establish and maintain a reference facility for the public inspection and copying of:

(1) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(2) Those statements of policy and interpretations which have been adopted by the Bureau and are not published in the FEDERAL REGISTER;

(3) Administrative staff manuals and instructions to staff that affect a member of the public;

(4) Current indexes providing identifying information for the public as to any matter which is (i) issued, adopted, or promulgated after July 4, 1967, and (ii) required to be made available or published by section 552(a)(2);

(5) Records of the final votes of each member in every proceeding of any agency comprised of more than one member;

(6) Rules and decisions denying requests for records which otherwise implement or relate to the Act; and

(7) Materials published in the FEDERAL REGISTER pursuant to 5 U.S.C. 552(a)(1) and such other materials which each unit may consider desirable and practical to make available for the convenience of the public.

(b) The Bureau may, to prevent unwarranted invasion of personal privacy, delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction, and shall, in each such case, explain in writing the justification for the deletion.

(c) The Secretary of Commerce has determined (DAO 205-12, subparagraph



5.02a.5.) that it is unnecessary and impracticable to publish quarterly or more frequently and distribute (by sale or otherwise) copies of each index and supplements thereto, as provided in 5 U.S.C. 552(a)(2). Upon request, copies of such indexes shall be provided at the public reference facility at a cost not to exceed the direct cost of duplication.

(d) The above materials may be inspected in the SESA Freedom of Information Records Inspection Facility located at the Library Branch, Room 2455, Federal Building 3, Social and Economic Statistics Administration, Washington, D.C. 20233 (Suitland, Maryland). This facility is open to the public Monday through Friday of each week, except on official Federal holidays, between the hours of 9 a.m. and 4:30 p.m. There are no fees or formal requirements for such inspections. Upon request, however, the facility will arrange to have copies of the above materials made at the cost shown in § 60.10.

(e) Correspondence concerning the materials available in the facility should be sent to the above address. The telephone number of the facility is 763-5040, Area Code 301.

**§ 60.6 Confidentiality of data collected by the Bureau of the Census.**

(a) The Bureau of the Census is required by law to keep certain records confidential. Protection against unauthorized disclosures is provided by title 13, U.S.C.

**§ 60.7 Requests for records.**

(a) The procedures of this section are applicable only to those records not customarily available to the public as part of the regular informational activities of the Bureau or which are not available in the SESA reference facility described in § 60.5. The procedures and fees generally do not apply to applications for personal census information. Applications for personal census information should be directed to the Bureau's Personal Census Service Branch at Walnut and Pine Streets, Pittsburg, Kansas 66762.

(b) A person who wishes to inspect records described in § 60.7(a) shall make a request in writing, with the envelope and letter clearly marked "Freedom of Information Desk" or "Freedom of Information Request" or the equivalent, to distinguish it from other mail to the Department. Each such request, so marked, shall be addressed to Director, Bureau of the Census, Attention: Freedom of Information Desk, Washington, D.C. 20233.

(c) A request which is not addressed as described in § 60.7(b) and which is not routed through the Department's Central Facility, will not be deemed to have been "received" for purposes of the time period for a request for records set forth in 5 U.S.C. 552(a)(6), until the earlier of the time that (1) forwarding of the request to the responsible unit has been effected, or (2) such forwarding would have been effected with the exercise of due diligence by Bureau personnel. In each instance when a request is for-

warded, the Bureau of the Census shall notify the requester that his request was improperly addressed and of the date the request was received by Census.

(d) A request for records shall sufficiently identify the records requested to enable Census personnel familiar with the subject matter to locate them with a reasonable amount of effort. The requester shall, to the extent possible, furnish specific descriptive information regarding dates and places the records were made, the file descriptions, subject matter, persons involved, and other pertinent details that will help identify the records. If the request relates to a matter in pending litigation, the court, location and case shall be identified. When more than one record is requested, the request shall clearly describe each specific record, and the specific information requested which is contained in a record, so that its availability may be separately determined. Employees at the SESA reference facility described in § 60.5 will assist the public to a reasonable extent in framing a request.

**§ 60.8 Initial determinations of availability of records.**

(a) Whenever the Bureau of the Census receives a request for records it shall promptly log the receipt of the request, and within 10 days of its receipt (excluding Saturdays, Sundays and legal public holidays) shall initially determine:

(1) Whether the request is for records under the Act, is for materials available otherwise than under the Act, or is for information not contained in existing records, and, therefore, not under the Act. The requester shall be promptly notified in writing how the request is being handled when it does not come within the Act.

(2) Whether the records requested are reasonably described and can be located on the basis of the information supplied by the requester. If any of the records requested cannot be identified and located from the information furnished, the Bureau shall promptly so inform the requester in writing, specifying what additional identification is needed to assist the Bureau in locating the record, and offering to assist the requester to reformulate its request.

(3) Whether the records no longer exist or are not in the Bureau's possession. The Bureau shall, if it knows which unit of the Department or other agency may have the records, forward the request to it. In each instance, the Bureau shall promptly notify the requester in writing.

(4) Whether the requested records are the exclusive or primary concern of another executive agency. If so, the Bureau shall promptly refer the request to that other agency for further action under its rules, and promptly notify the requester in writing of this referral.

(5) Whether the request is a categorical one. A categorical request, i.e., one for all records falling within a reasonably specific but broad category, shall be regarded as conforming to the statutory requirement that records be reasonably

described, if the particular records can be identified, searched for, collected and produced without unduly burdening or disrupting the Bureau's operations. If the categorical request does not reasonably describe the records requested, the Bureau shall promptly notify the requester in writing specifying what additional identification is needed, and extend to the requester an opportunity to confer with Bureau personnel to attempt to reformulate the request so as reasonably to describe the records.

(6) In each of the situations set forth in paragraphs (a) and (b) of this section, the procedures relating to fees described in § 60.10 shall also be applied and coordinated as appropriate.

(b) An official having custody of the records requested in the Bureau of the Census shall review the request to determine the availability of the records requested.

(1) The determination shall be made within 10 days (excluding Saturdays, Sundays and legal public holidays) of the receipt of the request (as defined in § 60.7 (c)), unless the time is extended as provided in paragraph (b) (2) of this section.

(2) In unusual circumstances, the Director may extend the time for initial determination for up to 10 days (excluding Saturdays, Sundays and legal public holidays) by written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. Extensions of time for the initial determination and extensions of time on appeal may not exceed a total of 10 days, and time taken for the former counts against available appeal extension time. "Unusual circumstances" means, but only to the extent reasonably necessary to the processing of a particular request:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practical speed, with another agency or unit having a substantial interest in the determination of the request, or among two or more components of the Bureau having substantial subject-matter interest therein.

(3) If no determination has been sent to the requester at the end of the initial 10-day period, or the last extension thereof, the requester may deem his/her request to be initially denied, and exercise a right of appeal therefrom. When no determination can be made within the applicable time period, the Bureau shall nevertheless exercise due diligence in continuing to process the request. It shall, on expiration of the applicable time period, inform the requester of the reason for the delay, of the date a determination is expected to be sent, and of



the requester's right to treat the delay as a denial and to appeal therefrom. It may ask the requester to forego an appeal until a determination is made.

(4) If it is determined that the records requested are to be made available, and there are no further fees to be paid, the responsible official shall promptly notify the requester as to where and when the requested records or copies may be obtained or otherwise provide them as agreed. If there are fees still to be paid by the requester, it shall be notified that upon payment the records will immediately be made available.

(5) Only the Director, Bureau of the Census, and in his absence, the Deputy Director have been authorized to make initial denials of requests for records. A reply initially denying, in whole or in part, a request for records shall be in writing, signed by the Director or, in the Director's absence, the Deputy Director, and it shall include:

(i) A reference to the specific exemption or exemptions of the Act authorizing the withholding of the records, stating briefly why the exemption applies and, where relevant, why a discretionary release is not appropriate.

(ii) The name and title or position of each official responsible for the denial.

(iii) A statement of the manner in which any reasonably segregable portion of a record shall be provided to the requester after deletion of the portions which are determined to be exempt.

(iv) A brief statement of the right of the requester to appeal the determination, and the address to which the appeal should be sent, in accord with § 60.9 (a) and (b).

(6) The Office of the General Counsel of the Department shall be consulted before any initial denial of a request for records is issued and a copy of each initial denial shall be provided to the Assistant General Counsel for Administration of the Department of Commerce, and the SESA Legal Adviser.

#### § 60.9 Appeals from initial denials or untimely delays.

(a) When a request for records has been initially denied in whole or in part, or has not been timely determined, the requester may submit a written appeal within 30-calendar days after the date of the written denial or, if there has been no determination, on the last day of the applicable time limit. The appeal shall include a copy of the original request, the initial denial, if any, and a statement of the reasons why the records requested should be made available and why the initial denial, if any, was in error. No personal appearance, oral argument or hearing on appeal is provided.

(b) An appeal shall be addressed to the Administrator, Social and Economic Statistics Administration, Washington, D.C. 20233. Both the appeal envelope and the letter shall be clearly marked "Freedom of Information Appeal" or "Appeal for Records" or the equivalent. An appeal not addressed and marked as provided herein will be so marked by the Bureau personnel when it is so identified, and

will be forwarded immediately to the proper addressee. An appeal incorrectly addressed will not be deemed to have been "received" for purposes of the time period for appeal set forth in 5 U.S.C. 552(a) (6), until the earlier of the time that (1) forwarding to the Administrator has been effected, or (2) such forwarding would have been effected with the exercise of due diligence by Bureau personnel. In each instance when an appeal is so forwarded, the Administrator shall notify the requester that the appeal was improperly addressed and of the date the appeal was received by that official.

(c) The Administrator, SESA, shall act upon an appeal within 20 days (excluding Saturdays, Sundays and legal public holidays) of its receipt, unless an extension of time is made in unusual circumstances, when the time for action may be extended up to 10 days (excluding Saturdays, Sundays and legal public holidays) minus any days of extension granted at the initial request level. A notice of such extension shall be sent to the requester, setting forth the reasons and the date on which a determination of the appeal is expected to be sent. As used in this paragraph, "unusual circumstances" are defined in § 60.8(b) (2).

(d) If a decision on appeal is to make the records available to the requester in part or in whole, such records shall be promptly made available for inspection and copying as provided in § 60.5.

(e) If no determination of an appeal has been sent to the requester within the 20-day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies with respect to such request, giving rise to a right of judicial review as specified in 5 U.S.C. 552(e) (4). When no determination can be sent to the requester within the applicable time limit, the Administrator shall nonetheless exercise due diligence in continuing to process the appeal. When the time limit expires, the requester shall be informed of the reason for the delay, of the date when a determination may be expected to be made, and his right to seek judicial review. The requester may be asked to forego judicial review until the appeal is determined.

(f) A determination on appeal shall be in writing and, when it denies records in whole or in part, the notice to the requester shall include: (1) notation of the specific exemption or exemptions of the Act authorizing the withholding, a brief explanation of how the exemption applies, and, when relevant, a statement as to why a discretionary release is not appropriate; (2) a statement that the decision is final for the Bureau and for the Department of Commerce; (3) advice that judicial review of the denial is available in the district in which the requester resides or has his principal place of business, the district in which the agency records are situated, or the District of Columbia, and (4) the names and titles or positions of each official responsible for the denial of the request.

(g) No final denial may be issued without (1) consulting with the Office of the Special Assistant to the Secretary for Public Affairs, and (2) concurrence of the Office of the General Counsel of the Department.

(h) Final appeal decisions shall be indexed and kept available for public inspection and copying. Copies shall be sent to the Department's Assistant Secretary for Administration and Assistant General Counsel for Administration and the SESA Legal Adviser.

#### § 60.10 Fees.

A uniform schedule of fees and procedures for collecting fees for the U.S. Department of Commerce has been promulgated and is published in 15 CFR 4.9, and applies to all requests for Bureau of the Census records.

#### § 60.11 Arrangements for public inspection and copying of available records.

(a) Upon receipt of the records search fee, and any fees for additional services requested by the applicant, the requested record which has been determined to be available shall, unless the applicant has otherwise indicated, be transferred to SESA's reference facility, where it will be held for inspection by the applicant for a reasonable time. The address, and hours of operation, of this facility are stated in § 60.5(d).

(b) During inspection of the record at the facility, the applicant may copy by hand any portion of the record, may request the facility to make a copy thereof, and may obtain certification of a machine-copied record in accordance with the fee structure in § 60.10.

(c) No changes or alterations of any type may be made to the record being inspected, nor may any matter be added to or subtracted therefrom. Papers bound or otherwise assembled in a record file may not be disassembled during inspection. Staff of the facility shall provide assistance if disassembly of a record is necessary for copying purposes, and are authorized to supervise public inspection as necessary to protect the records of the Bureau. The public is reminded of title 18, United States Code, section 2701 (a), which makes it a crime to conceal, remove, mutilate, obliterate, or destroy any record filed in any public office, or to attempt to do any of the foregoing.

(d) If an applicant does not want to inspect a record by personal visit, he may request that a copy thereof be mailed to him, upon payment of the copying and postage fees set forth in § 60.10. Original copies of records shall not be sent to any location other than the reference facility for public inspection pursuant to 5 U.S.C. 552(a) (3).

(e) Copies of transcripts of hearings may be made available for inspection when not in use.

Dated: May 1, 1975.

VINCENT P. BARABBA,  
Director,  
Bureau of the Census.

[FR Doc.75-11956 Filed 5-6-75; 8:45 am]



Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 75-105]

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

Informal Entries

Sections 123.4(b) and 143.23, Customs Regulations relating to procedures for recording the collection of duties and/or taxes on informal entries, amended.

Section 123.4 of the Customs Regulations (19 CFR 123.4) provides that, with certain stated exceptions, the inward foreign manifest required for a vehicle or a vessel of less than 5 net tons arriving in the United States from Canada or Mexico otherwise than by sea, with baggage or merchandise, shall be on Customs Form 7533. However, paragraph (b) of that section provides that, for dutiable merchandise not exceeding \$250 in value entered informally on Customs Form 5119-A, the latter form may be used as a manifest in lieu of other forms.

Similarly, § 143.23 of the Customs Regulations (19 CFR 143.23) provides that, with certain stated exceptions, merchandise to be entered informally shall be entered on Customs Form 5119-A.

In lieu of using Customs Form 5119-A, which is usually prepared by a Customs officer for informal entries, an alternative procedure is currently being used in some cases at ports within the Houston, Texas, Customs region (Region VI). This alternative procedure involves the classification of imported articles directly on the commercial invoice, which contains a declaration substantially similar to the declaration statement printed on Customs Form 5119-A, signed by the importer or his agent. After the Customs officer enters the appropriate classification item number and rate of duty, he initials and dates the invoice. A Customs teller then computes the duty, places the invoice into a cash register and depresses the appropriate keys for the amount of duty and collection code. The cash register records a number on the invoice which indicates the number of the machine, the year, a unique transaction number, and the amount of duty and/or tax. This information is also reflected on the cash register tape and on a collection receipt printed by the cash register. The collection receipt, which has been previously stamped with a notice of liquidation, is given to the importer as evidence of payment of the duty and/or tax due.

When this alternative procedure is used, Customs officers are relieved of the clerical task of preparing Customs Form 5119-A, thus allowing them to devote more time to other activities. In addition, this procedure provides accurate recordation and timely collection of all duties and/or taxes due on informal entries.

Inasmuch as all ports are not equipped to utilize this new procedure and since it is most effective at border ports han-

dling a considerable number of informal entries, its use is not mandatory. Customs Form 5119-A will still be prepared for informal entries unless the district director implements this alternative procedure within his district.

In order for the district director to implement this alternative procedure, it is necessary to amend § 123.4(b) of the Customs Regulations to enable an invoice which contains a declaration substantially similar to the declaration statement printed on Customs Form 5119-A, signed by the importer or his agent, to be used as a manifest. It is also necessary to amend § 143.23 of the Customs Regulations so that an invoice which contains the same signed declaration statement may serve as an informal entry in lieu of Customs Form 5119-A.

Accordingly, §§ 123.4 and 143.23 of the Customs Regulations (19 CFR 123.4, 143.23) are hereby amended as set forth below:

Paragraph (b) of section 123.4 is revised to read as follows:

§ 123.4 Inward foreign manifest forms to be used.

(b) For dutiable merchandise not exceeding \$250 in value entered on Customs Form 5119-A, the same form may be used as a manifest in lieu of other forms. (See § 143.21 of this chapter.) The district director may also allow such merchandise to be entered informally upon the presentation of a commercial invoice which contains the following declaration, signed by the importer or his agent:

I declare that the information on this invoice is accurate to the best of my knowledge and belief; that the invoice quantities are true and correct manifest quantities; and that I have not received and do not know of any invoice other than this one.

(R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (19 U.S.C. 66, 1484, 1498, 1624))

Section 143.23 is amended by changing the introductory clause immediately preceding paragraph (a) to read as follows:

§ 143.23 Form of entry.

Except for the types of merchandise listed below which may be entered on the forms indicated, merchandise to be entered informally shall be entered on a Customs Form 5119-A, or, if authorized by the district director, upon the presentation of a commercial invoice which contains the following declaration, signed by the importer or his agent:

I declare that the information on this invoice is accurate to the best of my knowledge and belief; that the invoice quantities are true and correct manifest quantities; and that I have not received and do not know of any invoice other than this one.

(R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (19 U.S.C. 66, 1484, 1498, 1624))

Because these amendments merely conform the Customs Regulations to

present operating procedures and create no additional burden on the public, notice and public procedure thereon are found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. These amendments shall become effective May 7, 1975.

[SEAL]

VERNON D. ACREE,  
Commissioner of Customs.

Approved: April 28, 1975.

DAVID R. MACDONALD,  
Assistant Secretary of the  
Treasury.

[FR Doc. 75-11969 Filed 5-6-75; 8:45 am]

Title 21—Food and Drugs

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Placement of Difenoquin in Schedule I

By a letter dated March 22, 1974, the Secretary-General of the United Nations advised the Secretary of State of the United States that the Commission on Narcotic Drugs has decided that the drug difenoquin should be added to Schedule I of the Single Convention on Narcotic Drugs, 1961.

Under the provisions of section 201(d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(d)), the Attorney General is required to control difenoquin under the schedule he deems most appropriate to carry out the obligations of the United States under the Single Convention. The Administrator of the Drug Enforcement Administration has determined that because there is currently no accepted medical use for difenoquin in treatment in the United States, it should be controlled in Schedule I of the Act.

Therefore, under the authority vested in the Attorney General by section 201(d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(d)) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, and in accordance with § 1308.49 of Title 21 of the Code of Federal Regulations, the Administrator hereby orders that § 1308.11(b) of Title 21 of the Code of Federal Regulations be amended as follows:

§ 1308.11 Schedule I.

(b)	.....	.....
(16)	Difenoquin.....	9168
(17)	Dimenoxadol.....	9617
(18)	Dimethheptanol.....	9618
(19)	Dimethylthiambutene.....	9619
(20)	Dioxaphetyl butyrate.....	9621
(21)	Dipipanone.....	9622
(22)	Ethylmethylthiambutene.....	9623
(23)	Etonitazene.....	9624
(24)	Etioxinidine.....	9625
(25)	Furethidine.....	9626
(26)	Hydroxypethidine.....	9627



(27) Ketobemidone.....	9628
(28) Levomoramide.....	9629
(29) Levophenacymorphan.....	9631
(30) Morpheridine.....	9632
(31) Noracymethadol.....	9633
(32) Norlevorphanol.....	9634
(33) Normethadone.....	9635
(34) Norpipanone.....	9636
(35) Phenadoxone.....	9637
(36) Phenapromide.....	9638
(37) Phenomorphan.....	9647
(38) Phenoperidine.....	9641
(39) Piritramide.....	9642
(40) Proheptazine.....	9643
(41) Properidine.....	9644
(42) Propiram.....	9649
(43) Racemoramide.....	9645
(44) Trimeperidine.....	9646

## EFFECTIVE DATES

1. **Registration.** Any person who manufactures, distributes, imports or exports difenoxin, or who engages in research or conducts instructional activities with respect to difenoxin, or who proposes to engage in such activities, shall obtain a registration to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations on or before July 1, 1975.

2. **Security.** Difenoquin must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72(a), 1301.73, 1301.74(a), 1301.75, and 1301.76 of Title 21 of the Code of Federal Regulations on or before July 1, 1975. In the event that this imposes special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time.

3. **Labeling and Packaging.** All labels on commercial containers of, and all labeling of difenoxin, packaged after November 1, 1975, shall comply with the requirement of §§ 1302.03-1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations. In the event this effective date imposes special hardships on any "manufacturer", as defined in section 102(14) of the Controlled Substances Act, 21 U.S.C. 802(14), the Drug Enforcement Administration will entertain any justified requests for an extension of time.

4. **Quotas.** All persons required to obtain quotas shall submit applications pursuant to section 1303.22 of Title 21 of the Code of Federal Regulations on or before July 1, 1975.

5. **Inventory.** Every registrant required to keep records who possesses any quantity of difenoxin shall take an inventory, pursuant to §§ 1304.11-1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of difenoxin on hand on July 1, 1975.

6. **Records.** All registrants required to keep records pursuant to §§ 1304.21-1304.27 of Title 21 of the Code of Federal Regulations shall maintain such records on difenoxin commencing on the date on which the inventory of difenoxin is taken.

7. **Reports.** All registrants required to file reports with the Drug Enforcement Administration pursuant to §§ 1304.37-1304.41 of Title 21 of the Code of Federal Regulations shall report on the inventory

taken under paragraph 5 above and on all subsequent transactions.

8. **Order forms.** Each distribution of difenoxin on or after July 1, 1975, shall utilize an order form pursuant to Part 1305 of Title 21 of the Code of Federal Regulations except as permitted in § 1305.03 of that title.

9. **Importation and exportation.** All importation and exportation of difenoxin on and after July 1, 1975, shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

10. **Criminal liability.** Pursuant to Title 21 of the Code of Federal Regulations, § 1308.49, the Administrator, Drug Enforcement Administration hereby orders that any activity with respect to difenoxin, not authorized by, or in violation of the Controlled Substances Act or the Controlled Substances Import and Export Act, conducted after June 1, 1975, shall be unlawful, except that any person who is not now registered to handle these substances but who is entitled to registration under such Acts may continue to conduct normal business or professional practice with difenoxin between the date on which this order is published and the date on which he obtains or is denied registration.

11. **Other.** In all other respects, this order is effective on June 1, 1975.

Dated: May 1, 1975.

JERRY N. JENSON,  
Deputy Administrator,  
Drug Enforcement Administration.

[FR Doc. 75-11885 Filed 5-2-75; 10:07 am]

## Title 41—Public Contracts and Property Management

## CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amendment 147]

## PART 1-9—PATENTS, DATA, AND COPYRIGHTS

## Allocation of Rights in Inventions

This amendment of the Federal Procurement Regulations makes changes in Subpart 1-9.1, Patents, which was published in the Federal Procurement Regulations (38 FR 23782, September 4, 1973). The regulations were developed in cooperation with the Committee on Government Patent Policy, Federal Council for Science and Technology. The regulations implement the revised Presidential Statement on Government Patent Policy (36 FR 16887, August 26, 1971). As originally published, interested parties were invited to submit comments. This opportunity to comment was considered appropriate, since the draft which was originally furnished for comment was extensively modified and enlarged. On February 28, 1974, the effective date provision of the regulations was canceled. The regulations now have been revised in the light of the comments received and a new effective date has been established.

The table of contents for Part 1-9 is amended by the addition of the following new entries:

## Subpart 1-9.1—Patents

Sec.

- 1-9.109 Administration of Patent Rights clauses.
- 1-9.109-1 Patent rights follow-up.
- 1-9.109-2 Follow-up by contractor.
- 1-9.109-3 Follow-up by Government.
- 1-9.109-4 Remedies.
- 1-9.109-5 Conveyance of invention rights acquired by the Government.
- 1-9.109-6 Retention of greater rights.

Subpart 1-9.1 is revised as follows:

## Subpart 1-9.1—Patents

## § 1-9.100 Scope of subpart.

This subpart sets forth policies, procedures, and contract clauses with respect to inventions made in the course of or under a contract or subcontract entered into with or for the benefit of the Government where a purpose is the conduct of experimental, developmental, or research work. The policies, procedures, and contract clauses may also be used in grants, agreements, and other arrangements as agencies deem appropriate.

## §§ 1-9.101-1-9.106 [Reserved]

## § 1-9.107 Patent rights under contracts for research and development.

## § 1-9.107-1 General.

(a) **Introduction.** On August 23, 1971, the President issued a Statement of Government Patent Policy (36 FR 16887, August 26, 1971) applicable to all executive departments and agencies, revising a prior Statement of Policy (28 FR 10943, October 12, 1963). Essentially, the goals of this Statement are to provide criteria for determining the allocation of rights in inventions resulting from federally sponsored research and development contracts, to promote their expeditious development so that the public can benefit from early civilian use of the inventions, and to ensure their continued availability. In applying this regulation, agency heads must weigh both the need for incentives to draw forth private initiatives, and the need to promote healthy competition in industry. Consistent with the FPR system, agencies may implement and supplement this subpart.

(b) **Applicable statutes.** Except to the extent that agencies are governed by specific statutes or by any treaty or agreement between the United States and any foreign country that are inconsistent with this subpart, agencies shall follow the provisions of this subpart, including the use of the prescribed clauses. Modifications to the prescribed clauses are permissible to the extent that these clauses are inconsistent with the requirements of statutes, treaties, or agreements.

(c) **Co-sponsored, cost sharing, or joint venture research.** The provisions of this subpart are not mandatorily applicable to co-sponsored, cost sharing, or joint venture research when the agency determines that in the course of the work under the contract the contractor will be required to make a substantial contribution of funds, facilities, or equipment to the principal purpose of the contract.



However, agencies are encouraged to follow the provisions of this subpart to the extent practicable.

(d) *Background patent rights.* Nothing in this subpart is intended to preclude the use of appropriate contract provisions concerning rights in contractor's background patents.

§ 1-9.107-2 [Reserved]

§ 1-9.107-3 Policy.

(a) The Government shall normally acquire or reserve the right to acquire the principal or exclusive rights throughout the world in and to any inventions made in the course of or under a contract where:

(1) A principal purpose of the contract is to create, develop, or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations; or

(2) A principal purpose of the contract is for exploration into fields which directly concern the public health, public safety, or public welfare; or

(3) The contract is in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and the retention of exclusive rights at the time of contracting might confer on the contractor a preferred or dominant position; or

(4) The services of the contractor are:

(i) For the operation of a Government-owned research or production facility; or

(ii) For coordinating and directing the work of others.

In exceptional circumstances the contractor may retain greater rights than a nonexclusive license at the time of contracting where the head of the department or agency certifies that such action will best serve the public interest. Greater rights may also be retained by the contractor after the invention has been identified where the head of the department or agency determines that the retention of such greater rights is consistent with the intent of this paragraph (a) and is either a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application or that the Government's contribution to the invention is small compared to that of the contractor. Where an identified invention made in the course of or under the contract is not directly related to a principal purpose of the contract, greater rights may also be retained by the contractor under the criteria of (c), below.

(b) In other situations, where the purpose of the contract is to build upon existing knowledge or technology to develop information, products, processes, or methods for use by the Government and the work called for by the contract

is in a field of technology in which the contractor has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position) directly related to an area in which the contractor has an established nongovernmental commercial position, the contractor shall normally retain the principal or exclusive rights throughout the world in and to any resulting inventions.

(c) Where the commercial interests of the contractor are not sufficiently established to be covered by the criteria specified in (b), above, the allocation of rights shall be made by the agency after the invention has been identified, in a manner deemed most likely to serve the public interest as expressed in this policy, taking particularly into account the intentions of the contractor to bring the invention to a point of commercial application and the guidelines of (a), above, provided that the agency may prescribe by regulation special situations where the public interest in the availability of the inventions would best be served by permitting the contractor to retain at the time of contracting greater rights than a nonexclusive license.

(d) In the situations specified in (b) and (c) of this section, when two or more potential contractors are judged to have presented proposals of equivalent merit, willingness to grant the Government principal or exclusive rights in resulting inventions will be an additional factor in the evaluation of the proposals.

(e) Where the principal or exclusive rights in an invention remain in the contractor, he should agree to provide written reports at reasonable intervals, when requested by the Government, on the commercial use that is being made or is intended to be made of inventions made under Government contracts.

(f) Where the principal or exclusive rights in an invention remain in the contractor, unless the contractor, his licensee, or his assignee has taken effective steps within 3 years after a patent issues on the invention to bring the invention to the point of practical application, or has made the invention available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why he should retain the principal or exclusive rights for a further period of time, the Government shall have the right to require the granting of a nonexclusive or exclusive license to a responsible applicant(s) on terms that are reasonable under the circumstances.

(g) Where the principal or exclusive rights to an invention are retained by the contractor, the Government shall have the right to require the granting of a nonexclusive or exclusive license to a responsible applicant(s) on terms that are reasonable in the circumstances (i) to the extent that the invention is required for public use by governmental regulations, or (ii) as may be necessary to fulfill health or safety needs, or (iii)

for other public purposes stipulated in the contract.

(h) Whenever the principal or exclusive rights in an invention remain in the contractor, the Government shall normally acquire:

(1) At least a nonexclusive, nontransferable, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and States and domestic municipal governments, unless the agency head or his designee determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments; and

(2) The right to sublicense any foreign government pursuant to any existing or future treaty or agreement if the agency head or his designee determines it would be in the national interest to acquire the right; and

(3) The principal or exclusive rights to the invention in any country in which the contractor does not elect to secure a patent.

(i) Whenever the principal or exclusive rights in an invention are acquired by the Government, there may be reserved to the contractor a revocable or irrevocable, nonexclusive, royalty-free license for the practice of the invention throughout the world; an agency may reserve the right to revoke such license so that it might grant an exclusive license when it determines that some degree of exclusivity may be necessary to encourage further development and commercialization of the invention. Where the Government acquires the principal or exclusive rights to an invention and does not elect to secure a patent in a foreign country, the contractor may retain such rights in any foreign country in which he elects to secure a patent, subject to the Government's rights set forth in (h) of this section.

(j) Nothing in this subpart shall be construed to confer immunity upon any person from the antitrust laws or from a charge of patent misuse, and no person shall be immune from the operation of State or Federal law by reason of the retention and use of rights pursuant to this subpart.

§ 1-9.107-4 Procedures.

(a) *Selection of Patent Rights clause.*

(1) Whenever a contract which is to be performed in the United States, its possessions, Puerto Rico, or the District of Columbia has as a purpose the conduct of experimental, developmental, or research work, the agency shall apply the policy in § 1-9.107-3 to the contracting situation and shall include in the contract a Patent Rights clause from §§ 1-9.107-5 or 1-9.107-6. The clauses in § 1-9.107-5 shall be used as appropriate in contracts with industrial concerns or in contracts with nonprofit organizations calling for developmental work. The clauses specified in §§ 1-9.107-5 or 1-9.107-6 may be used in contracts calling for basic or applied research with



nonprofit organizations. Solicitations shall provide offerors with an opportunity to show that the selected clause proposed for a contract is inappropriate for a particular procurement situation. In no event will contractors be asked to state their willingness to grant the Government principal or exclusive patent rights prior to a determination that proposals of equivalent merit have been presented.

(2) The Patent Rights clause in § 1-9.107-5(a), except as otherwise provided in § 1-9.107-6(a), shall be used whenever the agency determines that the experimental, developmental, or research work to be performed under the contract falls within § 1-9.107-3(a). This clause provides that the Government shall acquire title, under certain circumstances, to inventions made in the course of or under the contract subject to the reservation of nonexclusive license rights to the contractor. The contractor may retain greater rights than a nonexclusive license after an invention has been identified if the agency determines that the criteria of § 1-9.109-6 are met. When the agency head or his duly authorized designee determines that exceptional circumstances exist as provided for in § 1-9.107-3(a), paragraphs (b) and (i) of the clause prescribed in § 1-9.107-5(a) may be appropriately modified so that the contractor retains greater rights than a nonexclusive license concerning all or specific inventions.

(3) The Patent Rights clause in § 1-9.107-5(b) shall be used whenever the agency determines that the experimental, developmental, or research work to be performed under the contract does not come within § 1-9.107-3(a) but is within § 1-9.107-3(b). This clause provides that title to any inventions resulting from the contract remains in the contractor subject to the acquisition of certain specified rights by the Government.

(4) The Patent Rights clause in § 1-9.107-5(c), except as otherwise provided in § 1-9.107-6(b), shall be used whenever the agency determines that the experimental, developmental, or research work to be performed under the contract does not come within §§ 1-9.107-3(a) or (b), but is within § 1-9.107-3(c). The clause in § 1-9.107-5(c) provides that the allocation of rights in inventions resulting from the contract shall be deferred until after an invention has been identified. When the agency determines pursuant to its regulations that a special situation exists, paragraphs (b) and (i) of the clause prescribed in § 1-9.107-5(c) may be modified so that the contractor retains greater rights than a nonexclusive license.

(5) A short form Patent Rights clause in § 1-9.107-6(a) or (b) may be used by the agency instead of the clause in § 1-9.107-5(a) or (c), respectively, where the contract calls for basic or applied research and the contractor is a nonprofit organization for other than the operation of a Government-owned research or production facility. These clauses are not appropriate for use where the agency head determines that the contractor is

entitled to retention of greater rights upon a finding that exceptional circumstances as provided for in § 1-9.107-3(a) are present or where the contract falls within the special situations criteria of § 1-9.107-3(c). In either event, a Patent Rights clause in § 1-9.107-5, appropriately modified, shall be used.

(b) *Record of decisions.* Agencies shall record the basis for the following actions: (1) Selection of a Patent Rights clause; (2) finding of exceptional circumstances in § 1-9.107-3(a) or of special situations in § 1-9.107-3(c); (3) retention of greater rights pursuant to § 1-9.109-6; and (4) determinations under §§ 1-9.107-4(c) and (d).

(c) *License for the Government, States, and municipal governments.* The policy set forth in § 1-9.107-3(h) (1) provides that the Government shall normally acquire a paid-up license in any invention resulting from the contract for the Government, States, and municipal governments. Paragraph (c)(1) in the Patent Rights clauses in § 1-9.107-5 sets forth such a license. When the agency determines that it would not be in the public interest in a particular contracting situation to acquire a license for the Government of the scope in paragraph (c)(1), this paragraph may be appropriately modified. The agency head or his duly authorized designee may determine at the time of contracting that it would not be in the public interest to acquire such a license for States and municipal governments or may reserve the right to make this determination after the invention has been identified. When the determination is made or the right to make the determination is reserved, paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with the appropriate paragraph in § 1-9.107-5(d).

(d) *Right to sublicense foreign governments.* Paragraph (c) of the Patent Rights clauses in § 1-9.107-5 does not provide the Government with the right to grant a sublicense in any inventions resulting from the contract to any foreign government pursuant to any treaty or agreement. The agency head or his duly authorized designee may determine at the time of contracting that it would be in the national interest to acquire this right, or he may reserve the right to make this determination after the invention has been identified. When the agency head makes or reserves the right to make this determination, the appropriate sentence in § 1-9.107-5(e) shall be included as part of paragraph (c) in the Patent Rights clauses of § 1-9.107-5.

(e) *Minimum rights to contractor.* Paragraph (d) of the Patent Rights clauses of § 1-9.107-5 specify the minimum rights retained by the contractor in inventions made in the course of or under the contract. Where appropriate, the agency may modify this Minimum Rights provision, whereby, the contractor reserves:

(1) A revocable, nonexclusive, royalty-free license in the inventions, in which case paragraph (d) of § 1-9.107-5(a) shall be included in the Patent Rights clauses in § 1-9.107-5;

(2) A revocable, nonexclusive, royalty-free license in the inventions only upon request by the contractor for reservation of such a license, in which case paragraph (d)(1) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with paragraph (d)(1) in § 1-9.107-5(f);

(3) An irrevocable, nonexclusive, royalty-free license in the inventions, in which case paragraph (d) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with paragraph (d) in § 1-9.107-5(g); or

(4) An irrevocable, nonexclusive, royalty-free license in inventions constructively reduced to practice prior to the effective date of the contract, in which case paragraph (d)(4) of § 1-9.107-5(h) shall be added to the Patent Rights clauses in § 1-9.107-5.

(f) *Subcontracts.* (1) The policy expressed in § 1-9.107-3 is applicable to prime contracts and to subcontracts regardless of tier. The appropriate Patent Rights clause prescribed by this subpart shall be included in all subcontracts having as a purpose the conduct of experimental, developmental, or research work. In general, the Patent Rights clause in the prime contract, with the exception of the withholding provision, will be appropriate for inclusion in such subcontracts. Whenever the prime contractor or a subcontractor considers the inclusion of the Patent Rights clause of the prime contract in a subcontract to be inconsistent with the policy expressed in § 1-9.107-3, or a subcontractor refuses to accept a Patent Rights clause in his subcontract, the matter shall be referred to the agency contracting officer for resolution prior to the award of the subcontract. Upon such referral, the same considerations and procedures followed by the contracting officer in selecting the Patent Rights clause included in the prime contract shall be used in selecting the Patent Rights clause to be included in the subcontract.

(2) Contractors shall not use their ability to award subcontracts as economic leverage to acquire rights for themselves in the inventions resulting from subcontracts.

(g) *Publication of invention disclosures.* The Patent Rights clauses of § 1-9.107-5 and § 1-9.107-6 specify in paragraph (e)(4) and (b)(2), respectively, that the Government may duplicate and disclose invention disclosures reported under the contract. However, the publication of the information in an invention disclosure by any party before the filing of a patent application may create a bar to the filing of foreign patent applications. The agency may restrict the publication of such information by the contractor in order to protect the interests of the Government or the contractor in obtaining foreign patents by adding the paragraph prescribed by § 1-9.107-5(1)(2) as a consecutively-numbered paragraph after paragraph (e)(4) of the clauses of § 1-9.107-5, and after paragraph (b)(2) of the clauses of § 1-9.107-6. Where the contractor has been authorized to file foreign patent applications, the agency may desire to



restrict its publication of the information in the related invention disclosure in order to protect the filing of such foreign applications by the contractor. In this event, the sentence in § 1-9.107-5 (1) (1) should be added to paragraph (e) (4) of the Patent Rights clauses in § 1-9.107-5, and to paragraph (b) (2) of Patent Rights clauses in § 1-9.107-6.

(h) *Deviations.* Any departures from the policy, procedures, and clauses of this subpart shall be subject to the provisions of § 1-1.009.

**§ 1-9.107-5 Clauses for domestic contracts (long form).**

(a) *Patent Rights clause—Acquisition by the Government.* When the agency has determined that a contract falls within § 1-9.107-4(a) (2), the following clause shall be included in the contract.

**PATENT RIGHTS—ACQUISITION BY THE GOVERNMENT**

(a) *Definitions.* (1) "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(2) "Contract" means any contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, developmental, or research work.

(3) "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.

(4) "Government agency" includes an executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(5) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(b) *Allocation of principal rights.* (1) *Assignment to the Government.* The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are retained by the Contractor under paragraphs (b) (2) and (d) of this clause.

(2) *Greater rights determinations.* The Contractor or the employee-inventor with authorization of the Contractor may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of 41 CFR 1-9.109-6. A request for determination whether the Contractor or the employee-inventor is entitled to retain such greater rights must be submitted to the Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (e) (2) (1) of this clause, or not later than 3 months thereafter, or such longer

period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1-9.109-6. Each determination of greater rights under this contract normally shall be subject to paragraph (c) of this clause and to the reservations and conditions deemed to be appropriate by the agency.

(c) *Minimum rights acquired by the Government.* With respect to each Subject Invention to which the Contractor retains principal or exclusive rights, the Contractor:

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and States and domestic municipal governments;

(2) Agrees to grant to responsible applicants, upon request of the Government, a license on terms that are reasonable under the circumstances:

(i) Unless the Contractor, his licensee, or his assignee demonstrates to the Government that effective steps have been taken within 3 years after a patent issues on such invention to bring the invention to the point of practical application, or that the invention has been made available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why the principal or exclusive rights should be retained for a further period of time; or

(ii) To the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill public health, safety or welfare needs, or for other public purposes stipulated in this contract;

(3) Shall submit written reports at reasonable intervals upon request of the Government during the term of the patent on the Subject Invention regarding:

(i) The commercial use that is being made or is intended to be made of the invention; and

(ii) The steps taken by the Contractor or his transferee to bring the invention to the point of practical application or to make the invention available for licensing;

(4) Agrees to refund any amounts received as royalty charges on any Subject Invention in procurements for or on behalf of the Government and to provide for that refund in any instrument transferring rights to any party in the invention; and

(5) Agrees to provide for the Government's paid-up license pursuant to paragraph (c) (1) of this clause in any instrument transferring rights in a Subject Invention and to provide for the granting of licenses as required by (2) of this clause, and for the reporting of utilization information as required by paragraph (c) (3) of this clause whenever the instrument transfers principal or exclusive rights in any Subject Invention.

Nothing contained in this paragraph (c) shall be deemed to grant to the Government any rights with respect to any invention other than a Subject Invention.

(d) *Minimum rights to the Contractor.* (1) The Contractor reserves a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The

license shall be transferable only with approval of the agency except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's nonexclusive domestic license retained pursuant to paragraph (d) (1) of this clause may be revoked or modified by the agency to the extent necessary to achieve expeditious practical application of the Subject Invention under 41 CFR 101-4.103-3 pursuant to an application for exclusive license submitted in accordance with 41 CFR 101-4.104-3. This license shall not be revoked in that field of use and/or the geographical areas in which the Contractor has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public. The Contractor's nonexclusive license in any foreign country reserved pursuant to paragraph (d) (1) of this clause may be revoked or modified at the discretion of the agency to the extent the Contractor or his domestic subsidiaries or affiliates have failed to achieve the practical application of the invention in that foreign country.

(3) Before modification or revocation of the license, pursuant to paragraph (d) (2) of this clause, the agency shall furnish the Contractor a written notice of its intention to modify or revoke the license, and the Contractor shall be allowed 30 days (or such longer period as may be authorized by the agency for good cause shown in writing by the Contractor) after the notice to show cause why the license should not be modified or revoked. The Contractor shall have the right to appeal, in accordance with procedures prescribed by the agency, any decision concerning the modification or revocation of his license.

(e) *Invention, identification, disclosures, and reports.* (1) The Contractor shall establish and maintain active and effective procedures to ensure that Subject Inventions are promptly identified and timely disclosed. These procedures shall include the maintenance of laboratory notebooks or equivalent records and any other records that are reasonably necessary to document the conception and/or the first actual reduction to practice of Subject Inventions, and records which show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of these procedures so that he may evaluate and determine their effectiveness.

(2) The Contractor shall furnish the Contracting Officer:

(i) A complete technical disclosure for each Subject Invention within 6 months after conception or first actual reduction to practice whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of such invention known to the Contractor. The disclosure shall identify the contract and inventor and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) Interim reports<sup>1</sup> at least every 12 months from the date of the contract listing Subject Inventions for that period and certifying that:

(A) The Contractor's procedures for identifying and disclosing Subject Inventions as required by this paragraph (e) have been

<sup>1</sup> Agency may specify form.



followed throughout the reporting period; and

(B) All Subject Inventions have been disclosed or that there are no such inventions; and

(iii) A final report within 3 months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(3) The Contractor shall obtain patent agreements to effectuate the provisions of this clause from all persons in his employ who perform any part of the work under this contract except nontechnical personnel, such as clerical employees and manual laborers.

(4) The Contractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) *Forfeiture of rights in unreported Subject Inventions.* (1) The Contractor shall forfeit to the Government all rights in any Subject Invention which he fails to disclose to the Contracting Officer within 6 months after the time he:

(i) Files or causes to be filed a United States or foreign application thereon; or

(ii) Submits the final report required by paragraph (e) (2) (ii) of this clause, whichever is later.

(2) However, the Contractor shall not forfeit rights in a Subject Invention if, within the time specified in (1) (i) or (1) (ii) of this paragraph (f), the Contractor:

(i) Prepared a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the contract; or

(ii) Contending that the invention is not a Subject Invention, he nevertheless discloses the invention and all facts pertinent to his contention to the Contracting Officer; or

(iii) Establishes that the failure to disclose did not result from his fault or negligence.

(3) Pending written assignment of the patent applications and patents on a Subject Invention determined by the Contracting Officer to be forfeited (such determination to be a final decision under the Disputes Clause), the Contractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (f) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to Subject Inventions.

(g) *Examination of records relating to inventions.* (1) The Contracting Officer or his authorized representative until the expiration of 3 years after final payment under this contract shall have the right to examine any books (including laboratory notebooks), records, documents, and other supporting data of the Contractor which the Contracting Officer reasonably deems pertinent to the discovery or identification of Subject Inventions if the Contractor refuses or the requirements of this clause.

(2) The Contracting Officer shall have the right to review all books (including laboratory notebooks), records and documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether any such inventions are Subject Inventions if the Contractor refuses or fails to:

(i) Establish the procedures of paragraph (e) (1) of this clause; or

(ii) Maintain and follow such procedures; or

(iii) Correct or eliminate any material deficiency in the procedures within thirty (30) days after the Contracting Officer notifies the Contractor of such a deficiency.

(h) *Withholding of payment (Not applicable to Subcontracts).* (1) Any time before final payment of the amount of this contract, the Contracting Officer may, if he deems such action warranted, withhold payment until a reserve not exceed \$50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if in his opinion the Contractor fails to:

(i) Establish, maintain, and follow effective procedures for identifying and disclosing Subject Inventions pursuant to paragraph (e) (1) of this clause; or

(ii) Disclose any Subject Invention pursuant to paragraph (e) (2) (i) of this clause; or

(iii) Deliver acceptable interim reports pursuant to paragraph (a) (2) (ii) of this clause; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (i) (5) of this clause.

The reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(2) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of Subject Inventions required by paragraph (e) (2) (i) of this clause, and an acceptable final report pursuant to (e) (2) (iii) of this clause.

(3) The Contracting Officer may, in his discretion, decrease or increase the sums withheld up to the maximum authorized above. If the Contractor is a nonprofit organization the maximum amount that may be withheld under this paragraph shall not exceed \$50,000 or 1 percent of the amount of this contract whichever is less. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to the Government under this contract.

(i) *Subcontracts.* (1) For the purpose of this paragraph the term "Contractor" means the party awarding a subcontract and the term "Subcontractor" means the party being awarded a subcontract, regardless of tier.

(2) Unless otherwise authorized or directed by the Government Contracting Officer, the Contractor shall include this Patent Rights clause modified to identify the parties in any subcontract hereunder if a purpose of the subcontract is the conduct of experimental, developmental, or research work. In the event of refusal by a Subcontractor to accept this clause, or if in the opinion of the Contractor this clause is inconsistent with the policy set forth in 41 CFR 1-9.107-3, the Contractor:

(i) Shall promptly submit a written notice to the Government Contracting Officer setting forth reasons for the Subcontractor's refusal and other pertinent information which may expedite disposition of the matter; and

(ii) Shall not proceed with the subcontract without the written authorization of the Government Contracting Officer.

(3) The Contractor shall not, in any subcontract or by using a subcontract as consideration therefor, acquire any rights in his Subcontractor's Subject Invention for his own use (as distinguished from such rights as may be required solely to fulfill his con-

tract obligations to the Government in the performance of this contract).

(4) All invention disclosures, reports, instruments, and other information required to be furnished by the Subcontractor to the Government Contracting Officer under the provisions of a Patent Rights clause in any subcontract hereunder may, in the discretion of the Government Contracting Officer, be furnished to the Contractor for transmission to the Government Contracting Officer.

(5) The Contractor shall promptly notify the Government Contracting Officer in writing upon the award of any subcontract containing a Patent Rights clause by identifying the Subcontractor, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Government Contracting Officer, the Contractor shall furnish a copy of the subcontract. If there are no subcontracts containing Patent Rights Clauses, a negative report shall be included in the final report submitted pursuant to paragraph (e) (2) (iii) of this clause.

(6) The Contractor shall identify all Subject Inventions of the Subcontractor of which he acquires knowledge in the performance of this contract and shall notify the Government Contracting Officer promptly upon the identification of the inventions.

(7) It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns to the Government all rights that he would have to enforce the Subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any Subcontractor hereunder relating to the obligations of the Subcontractor to the Government in regard to Subject Inventions.

(b) *Patent Rights clause—Retention by the Contractor.* When the agency has determined that a contract falls within § 1-9.107-4(a)(3), the Patent Rights clause in § 1-9.107-5(a) shall be included in the contract, except that the name of the clause shall be changed to "Patent Rights—Retention by the Contractor", paragraph (b) of that clause shall be replaced by the following paragraph (b), and the following paragraphs (j) and (k) shall be added:

(b) *Allocation of principal rights.* (1) The Contractor may retain the entire right, title, and interest throughout the world or in any country thereof in and to each Subject Invention disclosed pursuant to paragraph (e) (2) (i) of this clause, subject to the rights obtained by the Government in paragraph (e) of this clause. The Contractor shall include with each Subject Invention disclosure an election as to whether he will retain the entire right, title, and interest in the invention throughout the world or any country thereof.

(2) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government, upon request, the entire domestic right, title, and interest in any Subject Invention when the Contractor:

(i) Does not elect under paragraph (b) (1) of this clause to retain such rights; or

(ii) Fails to have a United States patent application filed on the invention in accordance with paragraph (j) of this clause, or decides not to continue prosecution of such application; or

(iii) At any time, no longer desires to retain title.



(3) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government upon request the entire right, title, and interest in any Subject Invention in any foreign country if the Contractor:

(i) Does not elect under paragraph (b)(1) of this clause to retain such rights in the country; or

(ii) Fails to have a patent application filed in the country on the invention in accordance with paragraph (k) of this clause, or decides not to continue prosecution or to pay any maintenance fees covering the invention. To avoid forfeiture of the patent application or patent, the Contractor shall notify the Contracting Officer not less than 60 days before the expiration period for any action required by the foreign patent office.

(4) A conveyance requested pursuant to paragraph (b)(2) or (3) of this clause shall be made by delivering to the Contracting Officer duly executed instruments (prepared by the Government) and such other papers as are deemed necessary to vest in the Government the entire right, title, and interest to enable the Government to apply for and prosecute patent applications covering the invention in this or the foreign country, respectively, or otherwise establish its ownership of the invention.

(j) *Filing of domestic patent applications.*

(1) With respect to each Subject Invention in which the Contractor elects to retain domestic rights pursuant to paragraph (b) of this clause, the Contractor shall have a domestic patent application filed within 6 months after submission of the invention disclosure pursuant to paragraph (e)(2)(i) of this clause or such longer period as may be approved by the Contracting Officer for good cause shown in writing by the Contractor. With respect to the invention, the Contractor shall promptly notify the Contracting Officer of any decision not to file an application.

(2) For each Subject Invention on which a patent application is filed by or on behalf of the Contractor, the Contractor shall:

(i) Within 2 months after the filing or within 2 months after submission of the invention disclosure if the patent application previously has been filed, deliver to the Contracting Officer a copy of the application as filed including the filing date and serial number;

(ii) Include the following statement in the second paragraph of the specification of the application and any patents issued on a Subject Invention, "The Government has rights in this invention pursuant to Contract No. \_\_\_\_\_ (or Grant No. \_\_\_\_\_) awarded by (Identify the agency).";

(iii) Within 6 months after filing the application or within 6 months after submitting the invention disclosure if the application has been filed previously, deliver to the Contracting Officer a duly executed and approved instrument on a form specified by the Government fully confirmatory of all rights to which the Government is entitled, and provide the agency an irrevocable power to inspect and make copies of the patent application filed;

(iv) Provide the Contracting Officer with a copy of the patent within 2 months after a patent is issued on the application; and

(v) Not less than 30 days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the agency of any decision not to continue prosecution of the application and deliver to the agency executed instruments granting the Government a power of attorney.

(3) For each Subject Invention in which the Contractor initially elects not to retain

principal domestic rights, the Contractor shall inform the Contracting Officer promptly in writing of the date and identity of any on sale, public use, or publication of the invention which may constitute a statutory bar under 35 U.S.C. 102, which was authorized by or known to the Contractor, or any contemplated action of this nature.

(k) *Filing of foreign patent applications.*

(1) With respect to each Subject Invention in which the Contractor elects to retain principal rights in a foreign country pursuant to paragraph (b)(1) of this clause, the Contractor shall have a patent application filed on the invention in that country, in accordance with applicable statutes and regulations, and within one of the following periods:

(i) Eight months from the date of a corresponding United States application filed by or on behalf of the Contractor; or if such an application is not filed, 6 months from the date the invention is submitted in a disclosure pursuant to paragraph (e)(2)(i) of this clause;

(ii) Six months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign applications where such filing has been prohibited by security reasons; or

(iii) Such longer period as may be approved by the Contracting Officer.

(2) The Contractor shall notify the Contracting Officer promptly of each foreign application filed and upon written request shall furnish an English version of the foreign application without additional compensation.

(c) *Patent Rights clause—Deferred.*

When the agency has determined that a contract falls within § 1-9.107-4(a)(4), the Patent Rights clause in § 1-9.107-5(a) shall be included in the contract, except that the name of the clause shall be changed to "Patent Rights—Deferred" and paragraph (b) of that clause shall be replaced with the following paragraph (b):

(b) *Allocation of principal rights.* (1) Assignment to the Government. After a Subject Invention is identified, the Contractor agrees to assign to the Government the entire right, title, and interest therein throughout the world except to the extent that greater rights are retained by the Contractor under paragraphs (b)(2) and (d) of this clause.

(2) *Greater rights determinations.* The Contractor, or the employee-inventor with authorization of the Contractor, may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of 41 CFR 1-9.109-6. A request for a determination of whether the Contractor or the employee-inventor is entitled to retain such greater rights must be submitted to the Contracting Officer at the time of first disclosure of the invention pursuant to paragraph (e)(2)(i) of this clause, or not later than 3 months thereafter or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1-9.109-6. Each determination of greater rights under this contract normally shall be subject to paragraph (c) of this clause and to the reservations and conditions deemed to be appropriate by the agency.

(d) *License rights of States and municipal governments.*

(1) When the agency head or his duly authorized designee determines at the

time of contracting that it would not be in the public interest to acquire a paid-up license in inventions made in the course of or under the contract for States and domestic municipal governments, paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with the following paragraph (c)(1):

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency).

(2) When the agency head or his duly authorized designee decides to reserve the right to make the determination that it would not be in the public interest to acquire a paid-up license in a Subject Invention for States and domestic municipal governments until after the invention has been identified, paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with the following paragraph (c)(1):

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency), States and domestic municipal governments, unless the agency head determines after the invention has been identified that it would not be in the public interest to acquire the license for States and domestic municipal governments.

(e) *Right to sublicense foreign governments.* (1) When the agency head or his duly authorized designee determines at the time of contracting that it would be in the national interest to acquire the right to sublicense foreign governments pursuant to any treaty or agreement, a sentence shall be added to the end of paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 as follows:

This license shall include the right of the Government to sublicense foreign governments pursuant to any treaty or agreement with such foreign governments.

(2) When the agency head wishes to reserve the right to make the determination to sublicense foreign governments pursuant to any treaty or agreement until after the invention has been identified, a sentence shall be added to the end of paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 as follows:

This license shall include the right of the Government to sublicense foreign governments pursuant to any treaty or agreement if the agency head determines after the invention has been identified that it would be in the national interest to acquire this right.

(f) *Minimum rights to Contractor (upon request).* When the agency determines that the contractor may reserve a revocable, nonexclusive, royalty-free license in inventions made in the course of or under the contract, only upon a request by the contractor for the retention of such a license, paragraph (d)(1) of the clauses in § 1-9.107-5 shall be replaced with the following paragraph (d)(1):



(d) *Minimum rights to the Contractor.* (1) The Contractor may reserve upon request a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be assignable only with approval of the agency except to the successor of that part of the Contractor's business to which the invention pertains.

(g) *Minimum rights to Contractor (irrevocable).* When the agency determines that the contractor may reserve an irrevocable, nonexclusive, royalty-free license in the inventions resulting from the contract, paragraph (d) of the Patent Rights clauses of § 1-9.107-5 shall be replaced with the following paragraph (d):

(d) The Contractor reserves an irrevocable, nonexclusive, royalty-free license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. This license shall be transferable only with approval of the agency, except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(h) *Irrevocable license on Subject Inventions previously constructively reduced to practice.* When an agency decides that the contractor may reserve an irrevocable, nonexclusive and royalty-free license for practice in this country of each invention first actually reduced to practice under a contract which was conceived and constructively reduced to practice by the contractor prior to the effective date of execution of the contract, the following paragraph (d)(4) shall be added to paragraph (d) of the Patent Rights clauses in § 1-9.107-5.

(4) In addition to the provisions of paragraph (d)(1) of this clause, the Contractor reserves an irrevocable, nonexclusive, royalty-free license in each patent application filed in any country and any resulting patent on each Subject Invention constructively reduced to practice by the Contractor prior to the effective date of this contract. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be assignable only with approval by the agency except to the successor of that part of the Contractor's business to which the invention pertains.

(i) *Publication of invention disclosures.* (1) When the agency determines that it is in the best interest of the parties to withhold the release or publication of information in an invention

disclosure so that the contractor may file foreign patent applications on the invention, the following sentence shall be added to paragraph (e) (4) of the Patent Rights clauses in § 1-9.107-5 and to paragraph (b) (2) of the Patent Rights clauses in § 1-9.107-6:

If the Contractor is to file a foreign patent application on a Subject Invention, the Government agrees, upon written request of the Contractor, to use its best efforts to withhold publication of such invention disclosures until a patent application is filed thereon, but in no event shall the Government or its employees be liable for any publication thereof.

(2) When the agency determines to restrict the contractor's publication of invention disclosures prior to the filing of patent applications, the following paragraph should be added as a consecutively numbered paragraph to paragraph (e) of the Patent Rights clauses in § 1-9.107-5 and to paragraph (b) (2) of the Patent Rights clauses in § 1-9.107-6:

( ) In order to protect the patent interest of the Government or the Contractor, the Contractor shall obtain the written approval of the Contracting Officer prior to the release or publication of the information in any Subject Invention disclosure by the Contractor or other parties acting on his behalf.

#### § 1-9.107-6 Clauses for domestic contracts (short form).

(a) *Patent Rights clause—Acquisition by the Government.* The following clause may be used instead of the clause of § 1-9.107-5(a) in contracts for basic or applied research with nonprofit organizations other than for the operation of a Government-owned research or production facility.

#### PATENT RIGHTS—ACQUISITION BY THE GOVERNMENT (SHORT FORM)

##### (a) Definitions.

"Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

##### (b) Invention disclosures and reports.

(1) The Contractor shall furnish the Contracting Officer:

(i) A complete technical disclosure for each Subject Invention, within 6 months after conception or first actual reduction to practice, whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of the invention known to the Contractor. The disclosure shall identify the contract and inventor, and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) Interim reports<sup>1</sup> at least every 12 months from the date of the contract listing Subject Inventions for the period and certifying that all Subject Inventions have been disclosed or that there are no such inventions and

(iii) An acceptable final report<sup>1</sup> within 3 months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(2) The Contractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(c) *Allocation of principal rights.* (1) The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are retained by the Contractor under paragraphs (c) (2) and (d) of this clause.

(2) The Contractor or the employee-inventor with authorization of the Contractor may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of 41 CFR 1-9.109-6. A request for a determination of whether the Contractor or the employee-inventor is entitled to retain such greater rights must be submitted to the Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (b) (1) of this clause, or not later than 3 months thereafter or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1-9.109-6. Each determination of greater rights under this contract shall be subject to the provisions of paragraph (c) "Minimum rights acquired by the Government" of the clause in 41 CFR 1-9.107-5(a), and to the reservations and conditions deemed appropriate by the agency.

(d) *Minimum rights to the Contractor.* The Contractor reserves a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. Revocation shall be in accordance with the procedure of the clause in 41 CFR 1-9.107-5 (d) (2) and (3).

(e) *Employee and Subcontractor agreements.* Unless otherwise authorized in writing by the Contracting Officer, the Contractor shall:

(1) Obtain patent agreements to effectuate the provisions of this clause from all persons who perform any part of the work under this contract except nontechnical personnel, such as clerical employees and manual laborers;

(2) Insert in each subcontract having experimental, developmental, or research work as one of its purposes provisions making this clause applicable to the Subcontractor and his employees; and

(3) Promptly notify the Contracting Officer of the award of any such subcontract by providing him with a copy of the subcontract and any amendments thereto.

(b) *Patent Rights clause—Deferred (short form).* This clause may be used instead of the clause of § 1-9.107-5(c) in contracts for basic or applied research with nonprofit organizations. When the agency determines that a contract falls within § 1-9.107-3(c) and that a short form Patent Rights clause is to be used pursuant to § 1-9.107-4(a) (5), the Patent Rights clause set forth in § 1-9.107-6(a) shall be included in the contract except that the name of the clause shall be changed to "Patent Rights—Deferred (short form)"; and paragraph (c) (1) of

<sup>1</sup> Agency may specify a form.



that clause shall be replaced by the following paragraph (c) (1):

(1) After a Subject Invention is identified, the Contractor agrees to assign to the Government the entire right, title, and interest therein throughout the world except to the extent that rights are retained by the Contractor under paragraphs (c) (2) and (d) of this clause.

**§ 1-9.107-7 Clause for foreign contracts.**

A Patent Rights clause shall be included in every contract having as one of its purposes the conduct of experimental, developmental, or research work which is to be performed outside the United States, its possessions, or Puerto Rico. The clauses authorized for domestic contracts in §§ 1-9.107-5 and 1-9.107-6 may be used or replaced by any other clause tailored to meet the requirements peculiar to the foreign procurement.

**§ 1-9.108 [Reserved]**

**§ 1-9.109 Administration of Patent Rights clauses.**

**§ 1-9.109-1 Patent rights follow-up.**

It is important that the Government and the contractor know and exercise their rights in inventions conceived or actually reduced to practice in the course of or under Government contracts in order to ensure their expeditious availability to the public, to enable the Government, the contractor, and the public to avoid unnecessary payment of royalties, and to defend themselves against claims and suits for patent infringement. To attain these ends, contracts having Patent Rights clauses should be so administered that:

- (1) Inventions are identified, disclosed, and reported as required by the contract clauses;
- (2) The rights of the Government in such inventions are established;
- (3) When appropriate, patent applications are timely filed and prosecuted by contractors or by the Government;
- (4) The filing of patent applications is documented by formal instruments such as licenses or assignments; and
- (5) Expeditious commercial utilization of such inventions is achieved.

**§ 1-9.109-2 Follow-up by contractor.**

Each contractor shall establish and maintain effective procedures to ensure that inventions made under the contract are identified, disclosed, and when appropriate, patent applications filed, and that the Government's rights therein are established and protected. When it is determined after the award of a contract that the contractor or subcontractor may not have a clear understanding of the rights and obligations of the parties under a Patent Rights clause, a post-award orientation conference or letter should be used by the Government to explain these rights and obligations. When reviewing a contractor's procedures, particular attention shall be given to ascertaining their effectiveness for identifying and disclosing inventions.

**§ 1-9.109-3 Follow-up by Government.**

Each Government agency shall undertake to ensure compliance by the contractor with the obligations of the Patent Rights clause of the contract. This effort should be directed primarily toward contracts and subcontracts about which there is reason to believe the contractors may not be complying with their contractual obligations. Other contracts and subcontracts should be spotchecked when feasible. These follow-up activities may include:

- (1) Reviewing technical reports submitted by the contractor;
- (2) Checking sources for patents issued to the contractor in fields related to this Government contracts;
- (3) Interviewing contractor personnel regarding work under the contract, observing the work on site, and inspecting laboratory notebooks and other records of the contractor related to work under the contract; and
- (4) Interviewing agency technical personnel in contracts under their cognizance.

**§ 1-9.109-4 Remedies.**

If the contractor operating under the Patent Rights clauses of § 1-9.107-5 fails to establish, maintain, or follow effective procedures for identifying and disclosing inventions as required by the Patent Rights clause or fails to correct any deficiency after notice thereof, the contracting officer may require the contractor to make available for examination books, records and documents relating to inventions in the same field of technology as the contract to enable an agency determination of whether there are such inventions, and may invoke the withholding of payments provision. Further, the contracting officer may invoke the withholding of payments provision if the contractor fails to disclose an invention deemed by the agency to be a Subject Invention.

**§ 1-9.109-5 Conveyance of invention rights acquired by the Government.**

(a) Where the Government acquires the entire right, title, and interest in an invention pursuant to a contract, assignments are required from the inventor to the contractor and from the contractor to the Government, or from the inventor to the Government with the consent of the contractor, to establish clearly the chain of title from the inventor to the Government. The form of conveyance of title from the inventor to the contractor must be legally sufficient to convey the rights the contractor is required to convey to the Government. The optional form of assignment set forth hereinafter provides the complete chain of title in a single instrument and may be used to convey title to the Government. Alternatively, if separate assignments are used, both documents shall be forwarded simultaneously to the agency for recording.

**ASSIGNMENT**

Inventor(s): \_\_\_\_\_  
Contractor: \_\_\_\_\_  
Contracting Government Agency: \_\_\_\_\_

Contract No.: \_\_\_\_\_  
Application Title: \_\_\_\_\_  
Contractor's Invention Docket No.: \_\_\_\_\_  
Agency Invention Docket No.: \_\_\_\_\_  
Serial No.: \_\_\_\_\_ Filing Date: \_\_\_\_\_  
Date(s) Inventor(s) Executed Oath: \_\_\_\_\_

The undersigned Inventor(s), in recognition of his (their) obligation as employee(s) of the Contractor to assign inventions to the Contractor, and pursuant to the obligations of the Contractor to the Government under the above contract hereby assigns (assign) to the United States of America, as represented by the above-identified agency, the entire right, title, and interest in and to each invention disclosed and claimed in the above U.S. patent application and any substitution, division, continuation-in-part, or continuation of such patent application and any application for reissue of any patent resulting from such patent application, subject to the reservation of the following license, if any, to the Contractor.

The license reserved to the Contractor shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be transferable only with approval of the agency except when transferred to the successor of that part of the Contractor's business to which such invention pertains.

The Inventor(s) further agrees (agree) to assist the Contractor and the Government upon request by furnishing any available information and documents, performing all acts, and doing all things which may be reasonably necessary to make this assignment effective.

The Contractor joins in and agrees to this assignment and except for the above reservation of a license, if any, relinquishes and assigns the entire right, title, and interest in and to such inventions, and further agrees to furnish to the Government upon request any available information and documents necessary for the prosecution of the above-identified application for patent.

Signed this \_\_\_\_\_ days of \_\_\_\_\_, 19\_\_\_\_

(Inventor)

Attest: \_\_\_\_\_

Repeat above for each inventor.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Contractor's Official and Title)

Attest: \_\_\_\_\_

Accepted and agreed to on behalf of the Government

(Agency Official)

(Date)

(b) When the clause of § 1-9.107-5 (b) is included in a contract or when a party retains title to an identified invention and the right to file a patent application pursuant to a greater rights determination of § 1-9.109-6, the optional form of confirmatory instrument set forth hereinafter is approved for use by the contractor or by the party retaining title.

**CONFIRMATORY INSTRUMENT**

(License to the Government)

Application for: \_\_\_\_\_

(Title of invention)

Inventor(s): \_\_\_\_\_

Serial No.: \_\_\_\_\_ Contract No.: \_\_\_\_\_



Filing Date: \_\_\_\_\_ Contractor: \_\_\_\_\_  
 Filing Date: \_\_\_\_\_ Contractor: \_\_\_\_\_  
 The invention identified above is a "Subject Invention" under Patent Rights clause,  
 (Identify clause)  
 ( ) included in Contract No. \_\_\_\_\_  
 (date)  
 with \_\_\_\_\_  
 (specify agency)

This document is confirmatory of the paid-up license granted to the Government in this invention, patent application, and any resulting patent, and all other rights acquired by the Government under the referenced contract.

It is understood and agreed that this document does not preclude the Government from asserting rights under the provisions of said contract or of any other agreement between the Government and the Contractor, or any other rights of the Government with respect to the above-identified invention.

The Government is hereby granted an irrevocable power to inspect and make copies of the above-identified patent application.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

[SEAL] \_\_\_\_\_  
 Applicant or Assignee (Recorded)  
 By \_\_\_\_\_  
 ATTEST: \_\_\_\_\_  
 Business Address \_\_\_\_\_

(c) Assignments, licenses, confirmatory instruments, and other papers evidencing any rights of the Government in patents or patent applications shall be recorded in the Statutory Register and/or documented in the Governmental Register maintained by the U.S. Patent and Trademark Office pursuant to Executive Order 9424, February 18, 1944. Such documents shall be sent to the Commissioner of Patents and Trademarks, Attention: Assignment Branch, Washington, DC 20231, and when the document is to be recorded in the Statutory Register, shall be accompanied by the required fee. When the document is recorded in the Statutory Register, the Patent and Trademark Office places a copy of this recording in the Governmental Register. If the agency does not have the document recorded in the Statutory Register, it shall send two copies of the document to the Commissioner of Patents and Trademarks and request that these documents be filed in a designated section of the Governmental Register. The Governmental Register contains several sections including a secret, departmental, and public section. The secret section is for applications bearing a security classification; the departmental section is for documents which are available to the Government and to the public only upon approval of the Government agency; and the public section permits access to the public.

#### § 1-9.109-6 Retention of greater rights.

(a) *Request for the retention of greater domestic rights.* A contractor's request for a determination that he retain greater domestic rights in an identified invention under the Patent Rights clauses of § 1-9.107-5 (a) or (c) or § 1-9.107-6 shall be submitted in writing to the agency.

(1) The request shall contain the following information:

(i) The prime contract number and the subcontract number, if applicable, under which the invention was made and an identification of the agency's contracting office;

(ii) A brief description of the invention or a copy of the invention disclosure;

(iii) The nature and extent of the rights desired;

(iv) A description of the development, risk capital and expense, and time required to bring the invention to the point of practical application;

(v) A statement of the contractor's plans and intentions to bring the invention to the point of practical application including:  
 (A) If further development and marketing are to be conducted by the contractor, a description of the facilities, personnel, and marketing outlets available for that purpose, and the extent to which such development is to be undertaken by the contractor or others on his behalf and/or;

(B) If licensing of the invention is intended, a brief description of the contractor's licensing program; and

(vi) A statement, where the invention falls within § 1-9.107-3(a), of the contractor's contribution when the contention is made that the Government's contribution to the invention is small compared to his contribution.

(2) Agencies may request additional information which would facilitate a determination that greater rights should be retained by the contractor. Illustrations of such items of information include the following:

(i) The relationship of the invention to a principal purpose of the contract;

(ii) Any facts or information known to the contractor about whether the invention is intended to be developed by the Government for commercial use or is to be required for such use by governmental regulation;

(iii) The relationship, if any, of the invention to the public health, safety, or welfare; and

(iv) The field of science and technology of the invention and whether the Government has been the principal developer of this field.

(3) The contractor's employee(s) who made an invention in the course of or under a contract may also request, with proper authorization from his employer, a determination that he retain greater rights whenever the contract so provides. A copy of the authorization of the contractor-employer should be submitted with the employee-inventor's request for such a determination. In submitting the information required for a determination for the retention of greater rights as provided in § 1-9.109-6(a) (1), and in applying the other provisions of this paragraph, the term contractor shall be understood to also mean the employee-inventor.

(b) *Reimbursement of costs for filing patent applications.* In order to protect the interest of the Government and the

party submitting a request for a determination that greater rights be retained, the filing of a United States patent application prior to the agency's determination is permissible. If an application on a Subject Invention is filed during the pendency of the determination, or within 60 days prior to the receipt of a request by the agency, the agency shall reimburse the party filing the application for the reasonable filing costs and for any patent prosecution as may have occurred as provided by § 1-15.205-26 or § 1-15.309-22. Whenever such costs are not covered by § 1-15.205-26 or § 1-15.309-22, the agency may nevertheless reimburse the party causing the application to be filed for the reasonable costs of such filing and for any patent prosecution that may have occurred, subject to the availability of funds, provided:

(1) The agency determines that the party is not entitled to the retention of greater rights which are coextensive with the party's request; and

(2) Prior to reimbursement the party requesting such determination assigns the application to a Government agency and the agency accepts the assignment of the application.

(c) *Agency consideration.* The agency shall consider each request for a determination for the retention of greater domestic rights which was submitted within the period specified in the Patent Rights clause and shall make the determination in accordance with the criteria set out in paragraphs (d) or (e) of this section, as applicable.

(d) *Criteria for a determination for the retention of greater rights—Acquisition by the Government clause.* When the request for a determination for the retention of greater rights relates to an invention reported under the Patent Rights clause of § 1-9.107-5(a) or § 1-9.107-6(a):

(1) The requesting party may retain greater rights regardless of whether the invention is or is not directly related to a principal purpose of the contract when the agency finds that the invention comes within the criteria of § 1-9.107-3(a) (1) through (4); and

(i) The retention of greater rights is a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application; or

(ii) The Government's contribution to the invention is small compared to that of the contractor.

(2) The requesting party also may retain greater rights when the agency finds that:

(i) The invention is not directly related to a principal purpose of the contract and does not come within the criteria of § 1-9.107-3(a) (1) through (4); and

(ii) The likelihood is that the invention will be more expeditiously developed to the point of practical application by the intentions and plans of the requesting party than by the activities of the Government.

(e) *Criteria for a determination for the retention of greater rights—Deferred*



clause. When the request for a determination for the retention of greater rights relates to an invention reported under the Patent Rights clause of § 1-9.107-5(c) or § 1-9.107-6(b).

(1) The requesting party may retain greater rights where the agency finds:

(i) The invention does not come within the criteria of § 1-9.107-3(a) (1) through (4); and

(ii) The likelihood is that the invention will be more expeditiously developed to the point of practical application by the intentions and plans of the requesting party than by the activities of the Government.

(2) The requesting party may retain greater rights when an agency finds that the invention comes within the criteria of § 1-9.107-3(a) (1) through (4); and

(i) The retention of greater rights is a necessary incentive to call forth risk capital and expense to bring the invention to the point of practical application; or

(ii) The Government's contribution to the invention is small compared to that of the contractor.

(f) *Agency determination—Domestic rights.* (1) The agency shall notify the party requesting a determination for the retention of greater rights of its decision. If the agency's determination is not co-extensive with the party's request, the agency shall inform the party of the reasons on which the final action is based.

(2) Where the determination provides for the requesting party to retain title, the determination shall require that a domestic patent application be filed on the invention by the requesting party, and the following provisions shall apply:

(i) The application shall be filed within 6 months from the date of the determination, or such longer period as may be authorized in writing by the agency for good cause shown in writing by the requesting party;

(ii) For each patent application filed, the party shall:

(A) Within 2 months after such filing or within 2 months after the date of a determination if such patent application previously has been filed, deliver to the agency a copy of the application as filed, including the filing date and serial number;

(B) Include the following statement in the second paragraph of the specification of the application and any resulting patent: "The Government has rights in this invention pursuant to Contract No. \_\_\_\_\_ (or Grant No. \_\_\_\_\_) awarded by (identify the agency).";

(C) Within 6 months after such filing, or within 6 months after submission of the invention disclosure if the patent application has been previously filed, deliver to the agency a duly executed and approved instrument prepared by the Government fully confirmatory of all the rights to which the Government is entitled, and provide the agency an irrevocable power to inspect and make copies of the patent application filed;

(D) Provide the agency with a copy of the patent within 2 months after a patent is issued on the application; and

(E) Not less than 30 days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the agency of any decision not to continue prosecution of the application and deliver to the agency executed instruments granting the Government a power of attorney to prosecute the application; and

(iii) If the requesting party fails to file an application within the prescribed time periods, decides not to continue prosecution of the application, or no longer desires to retain title, he shall convey to the Government, upon request, his entire right, title, and interest in the invention, and to any corresponding patent application or patent. The conveyance shall be made by delivering to the agency duly executed instruments (prepared by the Government) and, if applicable, such other papers as are deemed necessary to vest in the Government the entire right, title, and interest in the invention and any corresponding patent application, and to enable the Government to prosecute the application.

(3) Where the determination provides for the requesting party to retain title, the determination shall be subject to a license to the Government, and the licensing and the commercial use reporting requirements of paragraph (c) "Minimum rights acquired by the Government," of the Patent Rights clauses of § 1-9.107-5. The determination normally shall also be subject to any other reservation or condition deemed to be appropriate by the agency.

(g) *Agency determination—Foreign rights.* (1) A contractor's request for a determination that he retain greater foreign rights in an invention under the Patent Rights clauses of either § 1-9.107-5 (a) or (c) or § 1-9.107-6 (a) or (b) may accompany a request for a determination that he retain greater domestic rights under § 1-9.109-6(a), or may be submitted independently thereof. The request shall contain the following information:

(i) The prime contract number and the subcontract number, if applicable, under which the invention was made and an identification of the agency's contracting office;

(ii) A brief description of the invention or a copy of the invention disclosure;

(iii) The countries in which the requesting party intends to file a patent application; and

(iv) Other information required by the agency.

(2) If the Government determines not to file a patent application on a Subject Invention of the contractor in any foreign country, the agency may authorize the requesting party to file a patent application on the invention in such foreign country and to retain the entire right, title, and interest therein if it determines such authorization to be in the public interest, subject to the license to the Government provided in paragraph (c) of the Patent Rights clause in § 1-9.107-5(a) or § 1-9.107-6(a).

(3) Where the determination includes a requirement that the requesting party

file and prosecute a foreign patent application on the invention, the following provisions shall apply:

(i) The requesting party shall file and prosecute a patent application on the invention in (identify the foreign countries) in accordance with applicable statutes and regulations and within one of the following periods:

(A) Eight months from the date the corresponding United States patent application is filed by or on behalf of the requesting party; or if such an application is not filed, 6 months from the date of this agreement;

(B) Six months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign applications where such filing has been prohibited by security reasons; or

(C) Such longer period as may be approved by the agency;

(ii) The requesting party shall notify the agency promptly of each foreign application filed and upon written request of the agency shall furnish an English version of the foreign application without additional compensation; and

(iii) If the requesting party files or causes to be filed a patent application on a Subject Invention in any foreign country, or if a patent is obtained on such application, the party shall notify the agency, not less than 60 days before the expiration period for any action required by the foreign patent office, of any decision not to continue prosecution of the application or not to pay any maintenance fee covering the invention, and within such period shall deliver to the agency:

(A) Executed instruments granting to the Government power of attorney in the application;

(B) An English version of the application, if not previously provided, to the agency; and

(C) Upon request, a conveyance of the party's entire right, title, and interest in the invention in the foreign country, and to any corresponding patent application.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

# EXPLANATION OF CHANGES

a. Subpart 1-9.1 is amended as follows:

(1) Section 1-9.100 is amended to substitute the word "policies" in lieu of "policy" in the second sentence.

(2) Section 1-9.107-1 is amended as follows:

(a) To amend § 1-9.107-1(a) to delete the penultimate sentence;

(b) To add a sentence at the end of § 1-9.107-1(c); and

(c) To add a new paragraph (d).

(3) Section 1-9.107-3 is a restatement of the 1971 Presidential Statement of Government Patent Policy except as amended as follows:

(a) To amend paragraphs (a) (3) and (4) by substituting the word "retention" in lieu of "acquisition";

(b) To amend paragraphs (a) (4), (b), and (c) by substituting the word "retain" in lieu of "acquire" in all occurrences;

(c) To amend paragraph (a) (4) by substituting the word "retained" in lieu of "acquired" in both occurrences;



(d) To further amend paragraph (a) (4) by substituting the phrase "directly related to a principal purpose" in lieu of "a primary object" in the last sentence;

(e) To further amend paragraph (c) by substituting the word "allocation" in lieu of "determination";

(f) To delete the last sentence of paragraph (d);

(g) To add new paragraphs (e), (f), and (g), and redesignate present paragraphs (e), (f), and (g) as new paragraphs (h), (i), and (j);

(h) Paragraph (i) is amended (A) to delete the words "has a right to" and substitute "acquires" in lieu of "acquire", (B) to delete the words "the Government may permit", and (C) to substitute the words "may retain" in lieu of "to acquire"; and

(i) Paragraph (j) is amended (A) to relocate the words "upon any person" and to delete the second occurrence of the word "any", (B) to substitute the words "no person shall be immune" in lieu of "the acquisition and use of rights pursuant to this subpart shall not be immunized", (C) to substitute the words "retention and use" in lieu of "source of the grant", and (D) to delete the word "such" and to add "pursuant to this subpart" at the end of the sentence.

(4) Section 1-9.107-4 is amended as follows:

(a) To amend paragraph (a) (1) by adding a reference to the District of Columbia, and by adding a new sentence at the end of the paragraph;

(b) To amend paragraph (a) (2), (A) by adding the word "that", by substituting the word "shall" in lieu of "with the option to", and by adding the words "under certain circumstances," in the second sentence, and (B) by substituting the words "so that" in lieu of "to permit", by deleting the word "to", and by substituting the word "retains" in lieu of "retain" in the last sentence;

(c) To amend paragraph (a) (3), second sentence, (A) by substituting the word "that" in lieu of "the contractor with the option to retain", (B) by substituting the word "the" in lieu of "his", (C) by adding the words "remains in the contractor", (D) by substituting the word "acquisition" in lieu of "reservation", (E) by adding the word "specified", and (F) by substituting the word "by" in lieu of "in";

(d) To amend paragraph (a) (4), second sentence, (A) by substituting the word "allocation" in lieu of "determination", and by substituting the words "deferred until" in lieu of "made by the agency", and (B) by substituting the words "so that" in lieu of "to permit", by deleting the word "to", and by substituting the word "retains" in lieu of "retain" in the last sentence of the paragraph;

(e) To amend paragraph (a) (5) by substituting the words "that the contractor is entitled to retention of" in lieu of "to grant" in the second sentence;

(f) To amend paragraph (b) (3) by adding the words "retention of" in lieu of "determinations";

(g) To amend paragraph (d), second sentence, (A) by substituting the word "this" in lieu of "a", and (B) by deleting the word "selected" in the last sentence of the paragraph;

(h) To amend paragraph (e), first sentence, (A) by adding the words "Paragraph (d) of" at the beginning of the sentence, by substituting the word "retained" in lieu of "to be obtained" and by deleting the word "any", and (B) to further revise the paragraph by substituting the words "Where appropriate, the agency may modify this Minimum Rights provision whereby" in lieu of "When the agency determines that", by deleting the word "may", and by substituting the word "reserves" in lieu of "reserve" in the second sentence;

(i) To amend paragraphs (e) (1), (2), (3) and (4) by adding the words "in which case";

(j) To further amend paragraph (e) (1) by deleting the word "selected" and by substituting the word "clauses" for "clause";

(k) To further amend paragraph (e) (2) by adding the words "reservation of";

(l) To further amend paragraph (e) (3) by substituting the word "or" in lieu of "and";

(m) To amend paragraph (g), first sentence, (A) by adding the phrases "and § 1-9.107-6" and "and (b) (2), respectively", (B) to revise the second sentence by substituting the words "paragraph prescribed by" in lieu of "provisions of", by substituting the words "as a consecutively-numbered paragraph after" in lieu of the word "to", and by adding the words "of the clauses of § 1-9.107-5, and after paragraph (b) (2) of the clauses of § 1-9.107-6" at the end of sentence, and (C) to revise the last sentence of the paragraph by adding the words "and to paragraph (b) (2) of Patent Rights clauses in § 1-9.107-6".

(5) Section 1-9.107-5 is amended as follows:

(a) To amend paragraph (a) by substituting the words "Acquisition by" in lieu of "Option in" in both occurrences in Title lines;

(b) To amend paragraph (b) of § 1-9.107-5(a) by substituting the word "Allocation" in lieu of "Disposition" in Title line;

(c) To amend subparagraph (b) (1) of § 1-9.107-5(a) by substituting the word "retained" in lieu of "obtained";

(d) To amend subparagraph (b) (2) of § 1-9.107-5(a) by adding the word "retain" in the second sentence;

(e) To amend paragraph (c) of § 1-9.107-5(a) in Title line, (A) by substituting "acquired by" in lieu of "granted to", (B) by adding the words "public", a comma, and the word "welfare" in subparagraph (c) (2) (ii), and (C) to add a new paragraph after subparagraph (c) (5);

(f) To amend subparagraph (d) (1) of § 1-9.107-5(a) by deleting the first sentence in its entirety and substituting a new one therefor, and by substituting the word "transferable" in lieu of "as-

signable" and by adding the words "when transferred" in the third sentence;

(g) To amend subparagraph (d) (2) of § 1-9.107-5(a), first sentence, (A) by adding the word "domestic" and by substituting "retained" in lieu of "reserved", (B) by deleting the words "either in whole or in part, as to the United States, its possessions, Puerto Rico, and the District of Columbia", (C) to revise the second sentence by substituting the word "that" for "the" before the word "field" and by adding the word "the" before "geographical", and (D) to revise the third sentence by substituting the word "at" in lieu of "either in whole or in part, in";

(h) To amend subparagraph (d) (3) of § 1-9.107-5(a) by adding the phrase "(or such longer period as may be authorized by the agency for good cause shown in writing by the Contractor)";

(i) To amend subparagraph (e) (1) of § 1-9.107-5(a) by (A) adding the words "and timely disclosed" in the first sentence, (B) adding the words "or equivalent records" and the word "Subject" in the second sentence, and (C) deleting the words "resulting from this contract", also in the second sentence;

(j) To amend subparagraph (e) (2) (i) of § 1-9.107-5(a) by adding the word "shall" in the second sentence;

(k) To amend subparagraph (e) (2) (ii) of § 1-9.107-5(a) by adding the words "listing Subject Inventions for that period and";

(l) To amend subparagraph (e) (2) (iii) of § 1-9.107-5(a) by substituting the words "A" in lieu of the words "An acceptable";

(m) To amend subparagraph (e) (3) of § 1-9.107-5(a) to add the words "non-technical personnel, such as" before the word "clerical" and by adding the word "employees" after the word "clerical", and substituting the word "laborers" in lieu of "labor personnel";

(n) To amend paragraph (e) (4) of § 1-9.107-5(a) by adding the words "furnished or";

(o) To amend subparagraph (f) (1) of § 1-9.107-5(a) by substituting the word "in" in lieu of "on", the word "disclose" in lieu of "report", and the words "within 6 months after" in lieu of "at or prior to";

(p) To amend subparagraph (f) (1) (ii) "except that", by adding a period, and by starting a new paragraph by adding "(2) However,";

(q) To redesignate subparagraphs (f) (1) (ii) (A), (B), and (C) of § 1-9.107-5(a) to subparagraphs (f) (2) (i), (ii) and (iii), and to redesignate subparagraph (f) (2) to (f) (3);

(r) To amend the redesignated subparagraph (f) (3) of § 1-9.107-5(a) by relocating the parenthetical phrase;

(s) To amend subparagraph (g) (1) of § 1-9.107-5(a) by adding the words "(including laboratory notebooks)";

(t) To amend subparagraph (g) (2) of § 1-9.107-5(a) by adding the words "books (including laboratory notebooks)," "to practice", and "in the same



field of technology as the work under this contract;

(u) To amend subparagraph (g) (2) (ii) of § 1-9.107-5(a) by substituting the word "and" in lieu of "to";

(v) To amend subparagraph (h) of § 1-9.107-5(a) by adding the words "(Not applicable to Subcontracts)" to the Title line;

(w) To amend subparagraph (h) (i) of § 1-9.107-5(a) by substituting a comma in lieu of the word "and", and by adding the words ", and follow" after the word "maintain";

(x) To amend subparagraph (h) (1) (iii) of § 1-9.107-5(a) by substituting the word "acceptable" in lieu of "the";

(y) To amend subparagraph (h) of § 1-9.107-5(a) by substituting the word "withheld" in lieu of "retained" in the paragraph after subparagraph (1) (iv);

(z) To amend subparagraph (h) (2) of § 1-9.107-5(a) by substituting the words "an acceptable" in lieu of the words "and the", and by substituting the words "pursuant to" in lieu of "required by";

(aa) To amend subparagraph (1) (2) of § 1-9.107-5(a) by deleting the words "except paragraph (h) of this clause";

(bb) To amend subparagraph (1) (2) (i) of § 1-9.107-5(a) by adding the word "a" after the word "submit";

(cc) To amend subparagraph (1) (3) of § 1-9.107-5(a) by deleting the word "such" after the word "using";

(dd) To amend subparagraph (1) (5) of § 1-9.107-5(a) by adding the word "and" and by deleting the comma after the word "award" in the first sentence;

(ee) To amend subparagraph (1) (6) of § 1-9.107-5(a) by deleting the words "exert his best effort to", and by adding the words "of which he acquires knowledge in the performance of this contract";

(ff) To amend § 1-9.107-5(b) by substituting the words "Retention by" in lieu of "Option in" in both the caption line and the text;

(gg) To amend subparagraph (b) of § 1-9.107-5(b) by substituting the word "Allocation" in lieu of "Disposition" in caption line;

(hh) To amend subparagraph (b) (3) (ii) of § 1-9.107-5(b) by substituting the words "To avoid forfeiture of the patent application or patent," in lieu of the words "In such an event,";

(ii) To amend subparagraph (b) (4) of § 1-9.107-5(b) by substituting the word "and" in lieu of the comma after the words "to apply for", and by substituting the word "of" for "in" at the end of the paragraph;

(jj) To amend subparagraph (j) (2) (iii) of § 1-9.107-5(b) by inserting the words "executed and" before the word "approved" and by deleting the words ", executed, and recorded" after the word "approved", and by adding the word "filed" at the end of the sentence;

(kk) To amend subparagraph (j) (2) (v) of § 1-9.107-5(b) by adding the words "and Trademarks" to the reference to the Patent Office, and by substituting the word "agency" in lieu of "Contracting Officer";

(ll) To amend subparagraph (j) (3) of § 1-9.107-5(b) by adding the word "principal";

(mm) To amend subparagraph (k) (1) of § 1-9.107-5(b) by adding the word "principal";

(nn) To amend subparagraph (k) (1) (ii) of § 1-9.107-5(b) by adding the words "and Trademark" to the reference to the Patent Office;

(oo) To amend subparagraph (k) (2) of § 1-9.107-5(b) by substituting the word "version" in lieu of "translation";

(pp) To amend § 1-9.107-5(c) by deleting the word "determination" in both the caption line and the text;

(rr) To amend subparagraph (b) (1) of § 1-9.107-5(c) by (A) substituting "Assignment to the Government," in lieu of "Determination," (B) deleting the first sentence of the subparagraph in its entirety, (C) substituting the words "After a Subject Invention is identified," in lieu of "Where the agency determines that the Government shall have title to a Subject Invention," (D) deleting the words "upon request of the Government", "in and to each Subject Invention," (E) inserting the words "to the Government", and "therein", and (F) substituting the words "retained by the Contractor" in lieu of the word "obtained";

(ss) To amend subparagraph (b) (2) of § 1-9.107-5(c) by adding the words "provided in paragraph (d)" in the first sentence, and by adding the word "retain" in the second sentence of the subparagraph;

(tt) To amend § 1-9.107-5(f) by inserting the words "the retention of" in the text portion;

(uu) To amend subparagraph (d) (1) of § 1-9.107-5(f) by deleting the first sentence in its entirety and substituting a new one;

(vv) To amend paragraph (d) of § 1-9.107-5(g) by deleting the first sentence in its entirety and substituting a new one, by inserting the word "shall" in the second sentence, and by substituting the word "transferable" in lieu of the word "assignable" and inserting the words "when transferred" in the third sentence of the paragraph;

(ww) To amend supplemental paragraph (4) of § 1-9.107-5(h) by substituting a comma in lieu of the word "and", to substitute the words "in each patent application filed in any country and any resulting patent on" in lieu of "for practice throughout the United States, its territories and possessions, Puerto Rico and the District of Columbia of" in the first sentence, and by inserting the word "shall" in the second sentence;

(xx) To amend paragraph (1) of § 1-9.107-5(i) by inserting the words "of the parties", and "and to paragraph (b) (2) of the Patent Rights clauses in § 1-9.107-6", and by substituting the word "written" in lieu of "specific" in the supplemental sentence; and

(yy) To amend paragraph (2) of § 1-9.107-5(i) by inserting the words "as a consecutively numbered paragraph" and the words "and to paragraph (b) (2) of the Patent Rights clauses in § 1-9.107-6",

and by deleting the reference "(5)" and inserting the word "written" in the supplemental paragraph.

(6) Section 1-9.107-6 is amended as follows:

(a) To amend the Title line of § 1-9.107-6(a) by substituting the words "Acquisition by" in lieu of "Option in" in both occurrences;

(b) To amend the first sentence of § 1-9.107-6(a) by substituting the word "or" for "and", and by relocating the word "for";

(c) To amend subparagraph (b) (1) (ii) of § 1-9.107-6(a) by inserting the words "listing Subject Inventions for the period and";

(d) To amend § 1-9.107-6(a) by adding a new subparagraph designated as "(b) (2)";

(e) To amend the Title line of paragraph (c) of § 1-9.107-6(a) by substituting the word "Allocation" in lieu of "Disposition";

(f) To amend subparagraph (c) (1) of § 1-9.107-6(a) by substituting the word "retained" in lieu of "obtained";

(g) To amend subparagraph (c) (2) of § 1-9.107-6(a) by adding the word "retain" in the second sentence;

(h) To amend subparagraph (d) of § 1-9.107-6(a) by deleting the first sentence in its entirety and substituting a new one therefor;

(i) To amend subparagraph (e) (1) of § 1-9.107-6(a) by inserting the words "nontechnical personnel, such as" and the word "employees", and by substituting the word "laborers" for the words "labor personnel";

(j) To amend subparagraph (e) (2) of § 1-9.107-6(a) by adding the letters "al" to the word "development";

(k) To amend § 1-9.107-6(b) by deleting the word "determination" in the Title line and in the text portion of the section, and by substituting the word "or" in lieu of "for" in the first sentence;

(l) To amend supplemental paragraph (c) (1) of § 1-9.107-6(b) by (A) deleting the first sentence in its entirety, (B) substituting the words "After a Subject Invention is identified" in lieu of "Where the agency determines that the Government have title", (C) deleting the words "upon request of the Government", "in and to each Subject Invention" and "obtained", and (D) adding the words "to the Government", "therein", and "retained";

(7) Section 1-9.109 is amended as follows:

(a) To amend paragraph (a) by (A) redesignating the paragraph as § 1-9.109-1 and by adding the title "Patent rights follow-up", (B) deleting the first sentence in its entirety, (C) adding the words "conceived or actually reduced to practice in the course of or under Government contracts" in the second sentence, and (D) in paragraph (5) adding the word "Expeditions";

(b) To amend paragraph (b) by (A) redesignating the paragraph as § 1-9.109-2 and by adding the title "Follow-up by Contractor", (B) adding the words "disclosed, and when appropriate,



patent applications filed," in the first sentence, and (C) adding the words "by the Government" in the second sentence;

(c) To amend paragraph (c) by (A) redesignating the paragraph as § 1-9.109-3 and by adding the title "Follow-up by Government", and (B) deleting the words "which because of the nature of the work or the large dollar amount spent are likely to result in inventions which are significant in number or quality, and toward contracts and subcontracts" in the second sentence;

(d) To amend paragraph (d) by (A) redesignating the paragraph as § 1-9.109-4 and by adding the title "Remedies", and (B) adding the words "books," "in the same field of technology as the contract", and the word "provision" (2 instances);

(e) To amend paragraph (e) by redesignating the paragraph as § 1-9.109-5, and by substituting the words "acquired by the" in lieu of the word "to" in the Title line;

(f) To amend paragraph (1) of § 1-9.109-5 by redesignating as paragraph (a);

(g) To amend paragraph (a) of § 1-9.109-5 by substituting the word "acquires" in lieu of "is entitled to the conveyance of" in the first sentence, and by substituting the word "hereinafter" in lieu of "in this § 1-9.109(e)(1)" in the second sentence;

(h) To amend the Assignment Form of § 1-9.109-5(a) by (A) adding the caption "Contracting Government Agency", (B) substituting the words "the entire" in lieu of "all" in the first paragraph, (C) substituting the word "The" in lieu of "Any" and adding the word "shall" in the first sentence of the second paragraph, (D) substituting the word "transferable" in lieu of "assignable" and adding the words "when transferred" in the second sentence of the second paragraph, (E) substituting the word "this" in lieu of "the foregoing", and substituting the words "the entire" in lieu of "all", and substituting the word "right" in lieu of "rights" in the fourth paragraph, and (F) substituting "(Inventor)" in lieu of "(INVENTORS)" in the signature line, and adding the asterisk and the words "Repeat for each inventor";

(i) To amend paragraph (2) of § 1-9.109-5 by (A) redesignating the paragraph as "(b)", (B) substituting the word "retains" in lieu of "obtains", (C) substituting the word "hereinafter" in lieu of "in this § 1-9.109(e)(2)", (D) substituting the words "retaining title" in lieu of "obtaining greater rights", and (E) deleting the second and third sentences in their entirety;

(j) To amend the Confirmatory Instrument of § 1-9.109-5(b) by (A) substituting a ".", for the first occurrence of the word "and", and adding the words "and any resulting patents", (B) substituting the words "acquired by" in lieu of "reserved to", (C) substituting the word "under" in lieu of "by", (D) substituting the word "contract" in lieu of "clause" in the first paragraph, and (E) deleting the first sentence of the second paragraph in its entirety;

(k) To amend paragraph (3) of § 1-9.109-5 by (A) redesignating the paragraph as "(c)", (B) adding the words "and Trademarks" to all references to the Commissioner of Patents, (C) adding the words "and Trademark" to all references to the U.S. Patent Office, and (D) in the fifth sentence, substituting the word "several" in lieu of "three", the words "including a" in lieu of "the", and substituting "section" in lieu of "sections";

(l) To amend § 1-9.109 by deleting "1-9.109-1 to 1-9.109-5 [Reserved].";

(m) To amend § 1-9.109-6 by adding the words "Retention of", and deleting the word "determinations" in the Title line;

(n) To amend paragraph (a) of § 1-9.109-6 by inserting the words "the retention of" in the caption line, and by substituting the words "that he retain" in lieu of the word "of" in the text portion;

(o) To amend subparagraph (1)(v) (A) of § 1-9.109-6(a) by substituting the words "and marketing are" in lieu of "is";

(p) To amend subparagraph (1)(v) (B) of § 1-9.109-6(a) by substituting the words "licensing of" in lieu of "he intends to license" and by adding the words "is intended";

(q) To amend subparagraph (1)(vi) of § 1-9.109-6(a) by substituting the words "the contention is made" in lieu of "he contends";

(r) To amend subparagraph (2) of § 1-9.109-6(a) by substituting the word "that" in lieu of "of", and by adding the words "should be retained by the contractor";

(s) To amend subparagraph (3) of § 1-9.109-6(a) by (A) deleting the words "greater rights" in all occurrences before the word "determination", (B) adding "that he retain greater rights" in the first sentence, (C) adding the word "such" in the second sentence, and (D) adding the words "for the retention of greater rights", and the word "also" in the third sentence;

(t) To amend § 1-9.109-6(b) by deleting the words "greater rights" before the word "determination" and adding the words "that greater rights be retained" in the first sentence; and substituting the word "by" in lieu of "in" in the third sentence;

(u) To amend subparagraph (1) of § 1-9.109-6(b) by adding the words "the retention of";

(v) To amend § 1-9.109-6(c) by adding the words "for the retention of", and "which was";

(w) To amend § 1-9.109-6(d) by substituting the word "a" in lieu of "greater rights", and adding the words "for the retention of greater rights" in the Title line and the first sentence. To further revise the Title line by substituting the words "Acquisition by the" in lieu of "Option in";

(x) To amend paragraph (1) of § 1-9.109-6(d) by substituting the words "directly related to a principal purpose" in lieu of "a primary object";

(y) To amend subparagraph (1)(i) of § 1-9.109-6(d) by substituting the word "retention" in lieu of "acquisition", and by deleting the word "the";

(z) To amend subparagraph (2)(i) of § 1-9.109-6(d) by substituting the words "directly related to a principal purpose" in lieu of "a primary object";

(aa) To amend the Title line of § 1-9.109-6(e) by adding the words "a determination of the retention of", and by deleting the word "determination" after the words "greater rights." The paragraph is further revised by substituting the word "a" in lieu of "the greater rights", and by adding the words "for the retention of greater rights" in the text portion;

(bb) To amend subparagraph (2)(i) of § 1-9.109-6(e) by substituting the word "retention" in lieu of "acquisition", and by deleting the word "the";

(cc) To amend paragraph (1) of § 1-9.109-6(f) by deleting both occurrences of the words "greater rights" before the word "determination", and by adding the words "for the retention of greater rights". The paragraph is further revised by deleting the third sentence in its entirety;

(dd) To amend paragraph (2) of § 1-9.109-6(f) by substituting the words "provides for the requesting party to retain title, the determination shall require that" in lieu of "includes a requirement that the requesting party have", by adding the word "be", and substituting the words "by the requesting party, and" in lieu of the comma;

(ee) To amend subparagraph (2)(i) of § 1-9.109-6(f) by adding the words "in writing";

(ff) To amend subparagraph (2)(ii) (B) of § 1-9.109-6(f) by adding the word "resulting";

(gg) To amend subparagraph (2)(ii) (C) by deleting the words "executed, and recorded" and by inserting the words "executed and" before the word "approved, and by inserting the word "filed" at the end of the sentence;

(hh) To amend subparagraph (2)(ii) (E) of § 1-9.109-6(f) by adding the words "and Trademark", and the words "to prosecute the application";

(ii) To amend subparagraph (2)(iii) of § 1-9.109-6(f) by substituting the words "requesting party fails to file an application within the prescribed time periods," in lieu of the word "applicant";

(jj) To amend subparagraph (3) of § 1-9.109-6(f) by substituting the words "Where the determination provides for the requesting party to retain title, the determination" in lieu of "The determination of greater rights, whether requested by the contractor or by the employee-inventor", and by deleting the words "the reservation of";

(kk) To amend paragraph (1) of § 1-9.109-6(g) by (A) adding the word "contractor's", (B) adding the words "determination that he retain greater" before the word "foreign" and by deleting the word "determination" after the word "rights"; (C) substituting "that he retain greater" in lieu of the word "of" after the second occurrence of the word



"determination", and (D) substituting the word "under" in lieu of "of";

(II) To amend paragraph (2) of § 1-9.109-6(g) by substituting the word "retain" in lieu of "acquire";

(mm) To amend subparagraph (3) (i) (B) of § 1-9.109-6(g) to add the words "and Trademarks";

(nn) To amend subparagraph (3) (ii), and (3) (iii) (B) of § 1-9.109-6(g) by substituting the word "version" in lieu of "translation"; and

(oo) To amend subparagraph (3) (iii) (C) of § 1-9.109-6(g) by substituting the word "right" in lieu of "right".

b. Not cited in the Explanation of changes are minor editorial changes, cross reference changes, and changes to the Index.

**Effective date.** This amendment is effective June 9, 1975, but may be observed earlier.

Dated: May 1, 1975.

ARTHUR F. SAMPSON,

Administrator of General Services.

[FR Doc. 75-11896 Filed 5-6-75; 8:45 am]

# CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE, EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR

## PART 60-6—SAN FRANCISCO PLAN

### Extension of Time

On June 4, 1971, the Department of Labor published the San Francisco Plan (36 FR 10868). The San Francisco Plan is intended to implement the provisions of Executive Order 11246, as amended, and the rules and regulations issued pursuant thereto, requiring a program of equal employment opportunity by Federal contractors and subcontractors in the city and county of San Francisco, California. It is deemed appropriate to further extend the San Francisco Plan for an additional one year period through April 30, 1976, to provide an opportunity to review the minority employment results achieved through the San Francisco Plan for purposes of future construction industry requirements in the city and county of San Francisco. Therefore, 41 CFR 60-6.30, Appendix A of the San Francisco Plan, must be included in all invitations or other solicitations for bids on federally involved construction contracts covered by the San Francisco Plan until April 30, 1976. The goals contained in § 60-6.30, Appendix A, for the year ending April 30, 1975, will be applicable to invitations and other solicitations for bids on federally involved construction contracts covered by the San Francisco Plan until April 30, 1976, or the promulgation of a new San Francisco Plan. All invitations or other solicitations should

be revised to reflect this extension through a revised Appendix A.

Signed this 30th day of April, 1975.

JOHN T. DUNLOP,  
Secretary of Labor.

BERNARD E. DELURY,  
Assistant Secretary for  
Employment Standards.

PHILIP J. DAVIS,  
Director, Office of Federal  
Contract Compliance.

[FR Doc. 75-11967 Filed 5-6-75; 8:45 am]

## Title 49—Transportation

### CHAPTER X—INTERSTATE COMMERCE COMMISSION

#### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1212]

#### PART 1033—CAR SERVICE

##### Union Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 30th day of April, 1975.

It appearing, that due to deterioration of track facilities the Great Plains Railway Company (GP) is unable to operate over its line serving Davenport, Nebraska; that the portion of the GP's line at Davenport extending from a connection with the Union Pacific Railroad Company (UP) in the vicinity of GP survey station 3 plus 38 and GP survey station 23 plus 43.5, a total distance of 2,005 feet, is serviceable; that shippers served by this trackage of the GP are in need of continued railroad service; that the GP has agreed to permit operation by the UP over the aforementioned tracks; that the UP has consented to perform service over these tracks; that such operation by the UP over these tracks of the GP is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1212 Service Order No. 1212.

(a) *Union Pacific Railroad Company Authorized to operate over tracks of Great Plains Railway Company.* The Union Pacific Railroad Company (UP) be, and it is hereby, authorized to operate over tracks of the Great Plains Railway Company (GP) between a point of connection with the UP at Davenport, Nebraska, in the vicinity of GP survey station 3 plus 38 and GP survey station 23 plus 43.5, a total distance of 2,005 feet.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Effective date.* This order shall become effective at 12:01 a.m., May 1, 1975.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL]

ROBERT L. OSWALD,  
Secretary.

[FR Doc. 75-12005 Filed 5-6-75; 8:45 am]

## Title 50—Wildlife

### CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

#### PART 32—HUNTING

##### Mark Twain National Wildlife Refuge, Ill.

The following special regulation is issued and is effective on May 7, 1975.

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

#### ILLINOIS

##### MARK TWAIN NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer with shotgun on the Mark Twain National Wildlife Refuge, Illinois, is permitted from November 21 through November 23, only on the area of the Gardner Division designated by signs as open to hunting. The open area, comprising 4,831 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, United States Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations concerning the hunting of white-tailed deer with shotgun subject to the following conditions:

(1) A valid State-issued shotgun deer permit with Mark Twain National Wildlife Refuge Designation will serve as authorization to enter the public hunting area. One hundred and fifty (150) permits will be issued following a May 14, 1975, drawing.



(2) Successful hunters will be required to check their deer through the Adams County Check Station near the division.

(3) Hunting will be from 7:30 a.m. to 4 p.m. (c.d.t.).

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR part 32 and are effective through November 23, 1975.

HOWARD A. LIPKE,  
Refuge Manager, Mark Twain  
National Wildlife Refuge.

APRIL 30, 1975.

[FR Doc.75-11938 Filed 5-6-75;8:45 am]

#### Title 7—Agriculture

### CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DE- PARTMENT OF AGRICULTURE

#### PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS Commuted Traveltime Allowances

The purpose of this amendment is to establish commuted traveltime periods as nearly as may be practicable to cover the

#### COMMUTED TRAVELTIME ALLOWANCES

(In Hours)

Location covered	Served from	Metropolitan area	
		Within	Outside
Puerto Rico: Ponce.....	San Juan.....		5

(64 Stat. 561; 7 U.S.C. 2290)

It is to the benefit of the public that this instruction be made effective at the earliest practicable date. Accordingly, it is found upon good cause, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing amendment are impracticable and unnecessary and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

**Effective date.** The foregoing amendment shall become effective May 1, 1975.

Done at Washington, D.C., this 1st day of May 1975.

JAMES O. LEE, Jr.  
Acting Deputy Administrator,  
Plant Protection and Quarantine  
Programs.

[FR Doc.75-11945 Filed 5-6-75;8:45 am]

### CHAPTER IX—AGRICULTURAL MARKET- ING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Peach Reg. 1]

#### PART 918—FRESH PEACHES GROWN IN GEORGIA

##### Limitation of Shipments

This regulation requires that peaches grown in Georgia during the 1975 sea-

son, shipped to points outside of Georgia, other than those shipped in bulk to adjacent markets, meet the following requirements—Minimum grade: 85% U.S. No. 1 for May 8–August 31 period. Minimum size: 1½ inches for May 8–21 period, 1¾ inches for May 22–28 period, and 1¾ inches for May 29–August 31 period. This action is necessary to assure that peaches shipped will be of suitable quality and size in the interest of consumers and producers.

**Findings.** (1) Pursuant to the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of fresh peaches grown in the State of Georgia, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the Industry Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that this regulation will tend to effectuate the declared policy of the act.

(2) This regulation is based upon an appraisal of the crop and current and prospective market conditions. Shipments of peaches from Georgia are expected to begin on or about May 8, 1975. The grade and size requirements provided herein are necessary to prevent the handling, on and after May 8, 1975, of any

peaches which do not comply with such requirements, so as to provide consumers with good-quality fruit, consistent with the overall quality of the crop, in the interest of producers and consumers, pursuant to the declared policy of the act. The smaller minimum size requirements for the first part of the season reflect the fact that earlier-maturing varieties of peaches mature, on the average, at smaller sizes than do later-maturing varieties. The exception from grade, size, and inspection requirements for peaches shipped in bulk to adjacent markets follows the custom and pattern of prior years and is designed to permit the movement to those markets of peaches of such quality and sizes as are acceptable in the adjacent markets but are not suitable for distribution in more distant markets in competition with peaches from other areas.

(3) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective time of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than May 8, 1975. The committee held an open meeting on April 24, 1975, after giving due notice thereof, to consider supply and market conditions for fresh peaches grown in Georgia, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such peaches. Shipments of the early varieties of the current crop of peaches are expected to begin on or about May 8, 1975, and this regulation should be applicable, insofar as practicable, to all shipments of such peaches in order to effectuate the declared policy of the act; and compliance with this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

#### § 918.317 Peach Regulation 1.

**Order.** (a) No handler shall ship, except peaches in bulk to destinations in the adjacent markets, any peaches which:

(1) During the period May 8 through August 31, 1975, do not grade at least 85 percent U.S. No. 1 quality: *Provided,*



That peaches with well-healed hail marks or split pits not scored as serious damage, or peaches with not more than 1 percent decay, may be shipped if they otherwise meet the requirements of this subparagraph.

(2) During the period May 8 through May 21, 1975, are smaller than 1½ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent by count, of such peaches in any container in such lot, may be smaller than 1½ inches in diameter.

(3) During the period May 22 through May 28, 1975, are smaller than 1¾ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1¾ inches in diameter.

(4) During the period May 29 through August 31, 1975, are smaller than 1-7/8 inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1-7/8 inches in diameter.

(b) The inspection requirement contained in § 918.64 of this part shall not be applicable to any shipment of peaches in bulk to destinations in the adjacent markets, except for peaches in new containers, during the period specified in paragraph (a) (1) of this section.

(c) The maturity regulations contained in § 918.400 of this part are hereby suspended with respect to shipments of peaches to destinations other than in the adjacent markets during the period specified in paragraph (a) (1) of this section.

(d) When used herein, the terms "handler," "adjacent markets," "peaches," "peaches in bulk," and "ship" shall have the same meaning as when used in the aforesaid amended marketing agreement and order, and the terms "U.S. No. 1" and "diameter" shall have the same meaning as when used in the revised United States Standards for Peaches (7 CFR 51.1210-51.1223).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Dated: May 5, 1975.

CHARLES R. BRADER,  
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 75-12175 Filed 5-6-75; 8:56 am]

**CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE**

**PART 1001—MILK IN THE BOSTON REGIONAL MARKETING AREA**

**PART 1002—MILK IN NEW YORK-NEW JERSEY MARKETING AREA**

**PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA**

**PART 1015—MILK IN CONNECTICUT MARKETING AREA**

**PART 1036—MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA**

**PART 1040—MILK IN SOUTHERN MICHIGAN MARKETING AREA**

**CFR Correction**

In the January 1, 1975 revised edition of 7 CFR 1000-1059, subparagraphs (1), (2), and (3) of §§ 1001.61(b), 1002.50a(c), 1004.50(b), 1015.61(b), 1036.50(c), and 1040.50(c) should be deleted.

**PART 1040—MILK IN SOUTHERN MICHIGAN MARKETING AREA**

**CFR Correction**

In the January 1, 1975 revised edition of 7 CFR Parts 1000-1059, on page 369 the following paragraphs (c) and (d) should be added to § 1040.73.

(c) On or before the 13th day after the end of each month, each handler shall pay a cooperative association, which is a handler with respect to milk received by him from a pool plant operated by such cooperative association, or by bulk tank delivery pursuant to § 1040.9(c), not less than an amount computed by multiplying the uniform price for base milk subject to the location adjustment, if any, applicable at the transferee-plant as provided by § 1040.75 and the butterfat differential provided by § 1040.74 by the total hundredweight of milk received by such handler from the cooperative association.

(d) On or before the last day of each month for producer milk received during the first 15 days of the month at not less than the Class III milk price for the preceding month.



# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Customs Service

#### [19 CFR Part 4]

### VESSELS IN FOREIGN AND DOMESTIC TRADES

#### Boarding of Vessels

Notice is hereby given that under the authority of R.S. 251, as amended (19 U.S.C. 66), section 624, 46 Stat. 759 (19 U.S.C. 1624), and sections 1-3, 31 Stat. 58, as amended (46 U.S.C. 163), it is proposed to amend § 4.1(c) of the Customs Regulations (19 CFR 4.1(c)), pertaining to the boarding of vessels.

Section 4.1(c) of the Customs Regulations provides that, with certain exceptions, no one may board or leave a vessel arriving from outside the Customs territory of the United States without Customs permission until Customs formalities are completed. The exceptions relate to pilots, vessel agents, consular officers, and certain Federal officials, all of whom may have functions to perform aboard the vessel regarding navigational, Customs, or certain other Government matters. These regulations were issued under the authority of 46 U.S.C. 163, which authorizes and directs the Commissioner of Customs to prescribe and enforce regulations governing the boarding of vessels arriving in the United States before such vessels have been inspected and placed in security.

In order to emphasize that the persons permitted, without Customs permission, to board or leave vessels arriving from outside the Customs territory of the United States prior to the completion of Customs formalities are permitted this privilege solely to aid in the navigation of the vessel or to aid in or perform Customs or certain other Government business, and not to conduct commercial or private business, it is proposed to amend § 4.1(c) of the Customs Regulations regarding the activities permitted aboard such vessels prior to the completion of Customs formalities.

Accordingly, it is proposed to revise paragraph (c) of § 4.1 of the Customs Regulations (19 CFR 4.1(c)) to read as follows:

§ 4.1 Boarding of vessels; cutter and dock passes.

(c) No person, with or without the consent of the master, except a pilot in connection with the navigation of the vessel, an officer of the Coast Guard, an immigration or health officer, or an agent of the vessel or consular officer exclusively for purposes relating to Customs formalities, shall go on board any vessel arriving from outside the Customs territory

of the United States until the vessel has been taken in charge by a Customs officer. Except for the purpose of reporting the arrival of the vessel as required by law (see section 4.2), no person shall leave any vessel arriving from outside the Customs territory of the United States without the permission of the district director of Customs or the Customs officer in charge until such vessel has been properly inspected by Customs and brought to the dock or anchorage at which cargo is to be unladen and until all passengers have been landed from the vessel; nor shall the master of any vessel authorize the boarding or leaving of the vessel by any person in violation of this paragraph. Every person permitted to go on board shall be subject to Customs and quarantine regulations.

Prior to the adoption of the foregoing proposal, consideration will be given to any relevant data, views, or arguments which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than June 6, 1975.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C. during regular business hours.

VERNON D. ACREE,  
Commissioner of Customs.

Approved: April 25, 1975.

DAVID R. MACDONALD,  
Assistant Secretary  
of the Treasury.

[FR Doc. 75-11970 Filed 5-6-75; 8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### [7 CFR Part 52]

### CANNED DRIED BEANS AND CANNED PORK AND BEANS

#### Grade Standards; Extension of Comment Period

This notice extends the period for comments to the notice, published February 26, 1975 (40 FR 8207 and 8209), proposing the revision of the United States Standards for Grades of Canned Dried Beans (Other than Pork and Beans) and establishing United States Standards for Grades of Canned Pork and Beans.

These grade standards are issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090,

as amended; 7 U.S.C. 1624) which provides for the issuance of official U.S. grades to designate different marketing levels of quality for the voluntary use by producers, buyers, and consumers. Official grading services are also provided under this act upon request and upon payment of a fee to cover cost of such services.

The proposed rulemaking was published to update the current U.S. Standards for Grades of Canned Dried Beans. These standards have been revised only once, October 24, 1947, since they became effective in 1934.

A request for a 90 day extension of time for the comment period was submitted by the William Underwood Company, Westwood, Massachusetts. The William Underwood Company is a nationwide processor and distributor of various canned dried beans. The request indicated that additional time is needed to collect data and submit final comments to the proposed rulemaking.

It is determined that a reasonable extension of the comment closing date is consistent with the Department's policy to give adequate time for all persons to comment on each notice of proposed rulemaking to revise the U.S. standards. The comment period is hereby extended to July 14, 1975.

All persons who desire to submit written views, data, or arguments for consideration in connection with the proposed rulemaking should file the same in duplicate, not later than July 14, 1975, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, DC 20250. All written submissions made under this notice will be available at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: May 1, 1975.

E. L. PETERSON,  
Administrator,  
Agricultural Marketing Service.  
[FR Doc. 75-12008 Filed 5-6-75; 8:45 am]

### Commodity Credit Corporation

#### [7 CFR Part 1408]

### SETOFF, WITHHOLDING, AND STOP PAYMENT POLICIES

#### Conditions Under Which Actions Will Not Be Taken

Pursuant to the authority contained in section 4(d), 62 Stat. 1071; (15 U.S.C. 714b), notice is hereby given that Commodity Credit Corporation proposes to amend its setoff, withholding, and stop payment procedures.

The proposed amendment would delete the condition that setoff not be made